



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

On August 12, 2020, the Landlords made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Act* and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Landlord A.M. and the Tenant both attended the hearing. All parties in attendance provided a solemn affirmation.

The Landlord advised that they served the Tenant with the Notice of Hearing and evidence package by registered mail on August 18, 2020; however, they did not check if the Tenant could view their digital evidence pursuant to Rule 3.10.5 of the Rules of Procedure. The Tenant confirmed that she received this package and that she could view this digital evidence. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant has been served the Notice of Hearing and evidence package. As such, this evidence will be accepted and considered when rendering this Decision.

The Tenant advised that she served her evidence to the Landlords near the end of August 2020 by registered mail, and the Landlord confirmed that they received this package. As such, the Tenant's evidence will be accepted and considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Landlords entitled to a Monetary Order for compensation?
- Are the Landlords entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on August 21, 2018 and ended when the Tenant gave up vacant possession of the rental unit on or around July 28, 2020. She never returned the keys to the Landlords. Rent was established at \$974.70.00 per month and was due on the first day of each month. A security deposit was never paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

All parties agreed that a move-in inspection report was not conducted. As well, all parties agreed that the Tenant never provided a forwarding address in writing. The Landlord knew where the Tenant moved to as she observed the Tenant's movers moving her property across the street.

The Landlords advised that they are seeking compensation in the amount of **\$974.70** for a loss of rent for August 2020. She stated that the Tenant gave her notice to end the tenancy on July 5, 2020 by email that was effective for July 31, 2020. Given the short notice and the state of disarray that the Tenant left the rental unit in, the Landlords were unable to re-rent the unit for August 2020. They submitted pictures of the rental unit, as documentary evidence, to demonstrate the condition the rental unit was left in.

The Tenant advised that she had been looking for a new rental unit to move to and it was difficult due to the pandemic. Once she found a new place, she gave her notice immediately. She confirmed that she gave her notice on July 5, 2020 to end her tenancy on July 31, 2020.

The Landlord also advised that they are seeking compensation in the amount of **\$111.99** for the cost of having to shampoo the carpets. She stated that the Tenant did not clean the carpets at the end of tenancy and based on the length of the tenancy, she

was required to do so. They submitted pictures of the condition of the rental unit to support this claim.

The Tenant advised that she hired a cleaner, that she paid her for five hours of work, and that this person “did what she could in five hours”. She confirmed that she did not clean the carpets prior to vacating the rental unit.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 67 of the *Act* allows for compensation to be awarded to a party if damage or loss results from a party not complying with the *Act*, the *Residential Tenancy Regulations*, or a tenancy agreement. Furthermore, an Arbitrator may determine this amount and may Order that party to pay compensation to the other party.

With respect to the Landlords’ claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, “It is up to the party who is claiming compensation to provide evidence to establish that compensation is due”, that “the party who suffered the damage or loss can prove the amount of or value of the damage or loss”, and that “the value of the damage or loss is established by the evidence provided.”

When reviewing the totality of the evidence before me, there is no dispute that the parties entered into a fixed term tenancy agreement on August 21, 2018 that reverted to a month to month tenancy on March 1, 2020. The tenancy effectively ended when the Tenant gave notice to end her tenancy on July 5, 2020, that was effective for July 31, 2020, and she then gave up vacant possession of the rental unit on that date. Sections 44 and 45 of the *Act* set out how tenancies end and also specifies that the Tenant must give written notice to end a tenancy. As well, this notice cannot be effective earlier than one month after the date the Landlords receive the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. In essence, the Tenant must have given one, whole month’s notice in writing to end the tenancy. Section 52 of the *Act* sets out the form and content of a notice to end a tenancy.

Furthermore, Section 53 of the *Act* states the following:

53 (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

(3) In the case of a notice to end a tenancy, other than a notice under section 45

(3) [*tenant's notice: landlord breach of material term*], 46 [*landlord's notice: non-payment of rent*] or 50 [*tenant may end tenancy early*], if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

As the Tenant was required to give one, whole month's notice to end her tenancy, the effective end date of the tenancy based on her notice of July 5, 2020 would have automatically self-corrected, under Section 53 of the *Act*, to August 31, 2020. Based on the undisputed evidence, I do not find that the Tenant ended the tenancy in accordance with the *Act*. Therefore, I find that the Tenant vacated the rental unit contrary to Sections 45 and 53 of the *Act*. Moreover, even though the Tenant vacated prior to the effective end date of the tenancy, I find that the Tenant would still be responsible for August 2020 rent. Consequently, I grant the Landlords a monetary award in the amount of **\$974.70** to remedy this debt.

Regarding the Landlords' claim of compensation in the amount of \$111.99 because the Tenant did not shampoo the carpet at the end of the tenancy, I find it important to note that Policy Guideline # 1 states that "Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year." Given that the Tenant acknowledged that she did not clean the carpets at the end of the tenancy, I am satisfied that she should be responsible for the shampooing of

the carpets. As such, I grant the Landlords a monetary award in the amount of **\$111.99** to satisfy this claim

As the Landlords were successful in this Application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlords a monetary award as follows:

Calculation of Monetary Order Payable by the Tenant to the Landlords

Rental loss for August 2020	\$974.70
Carpet cleaning	\$111.99
Recovery of filing fee	\$100.00
TOTAL MONETARY AWARD	\$1,186.69

Conclusion

I provide the Landlords with a Monetary Order in the amount of **\$1,186.69** in the above terms, and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 2, 2020

Residential Tenancy Branch