



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on August 21, 2020. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was delivered on August 24, 2020. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

Issue to be Decided

Is the landlord entitled to a monetary award for loss or damages arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The **landlord's undisputed testimony** is as follows. The tenancy began on February 1, 2019 and ended on July 31, 2020. The tenant was obligated to pay \$1123.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$547.50 security deposit which the landlord still holds. The landlord testified that the tenant caused a flood in the unit that caused extensive damage. The landlord testified that the amount of damage was far more than the insurance deductible, so the landlord mitigated their losses by using their insurance. The landlord testified that the tenant did not pay the July 2020 rent and lost his mailbox key which required the landlord to incur an expense of changing the mailbox lock along with lightbulb replacements. The landlord and tenant conducted move in and move out condition inspection reports in writing. The tenant agreed to all the charges put forward for this hearing but has not made any payments. The landlord seeks a monetary order.

The landlord is applying for the following:

1.	Insurance Deductible	\$10,000.00
2.	Unpaid Rent	1123.00
3.	Lock Replacement	96.33
4.	Light bulb	5.00
5.	Filing Fee	100.00
6.		
7.	Less Deposit	-547.50
8.		
9.		
10.		
	Total	\$10,776.83

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a

contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. I address the landlords claim and my findings as follows.

The landlord provided extensive documentation, undisputed testimony, receipts and photos to support their application including the tenant signing off on all costs as claimed at the move out condition inspection. Applying the offsetting provision under section 72 of the *Act*, the landlord is entitled to retain the deposit in partial satisfaction of their claim.

Conclusion

In summary, the landlord has been successful for the following items:

1.	Insurance Deductible	\$10, 000.00
2.	Unpaid Rent	1123.00
3.	Lock Replacement	96.33
4.	Light bulb	5.00
5.	Filing Fee	100.00
6.		
7.	Less Deposit	-547.50
8.		
9.		
10.		
	Total	\$10,776.83

I order that the landlord retain the \$547.50 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$10, 776.83. This order may be filed in the Small Claims 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 08, 2020

Residential Tenancy Branch