



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDL-S, MNDCL-S, FFL

Introduction

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

- and a monetary order for money owed or compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:47 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 pm. The landlord and their agent, AC, attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord, their agent, and I were the only ones who had called into this teleconference.

The landlord confirmed that the tenant was served with the landlord's application for dispute resolution hearing package ('Application') and evidence on September 21, 2020 by way of registered mail. The landlord provided the tracking number in their evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant deemed served with the landlord's application and evidence on September 26, 2020, five days after its registered mailing. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This fixed-term tenancy originally began on September 16, 2019, and ended on August 31, 2020. Monthly rent was set at \$1,950.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$975.00, which they still hold. The landlord submitted a copy of the tenancy agreement in their evidentiary materials.

The landlord is requesting the following monetary orders.

Item	Amount
General & Carpet Cleaning	\$280.00
Painting – 3 walls	200.00
Quotation for repair/replacement of damaged laminate flooring	1,895.78
Move-in incentive for new tenant	800.00
Filing Fee	100.00
Total Monetary Order Requested	\$3,275.78

The landlord provided a copy of the notice sent by the tenant on August 1, 2020 informing the landlord that he would be moving out at the end of August 2020. The tenant believed that 30 days was sufficient notice to end a tenancy under the *Act*. The landlord testified that they attempted to advertise and re-rent the unit as soon as possible, and was able to find mitigate their losses and find a new tenant for the same monthly rent starting on September 1, 2020. The landlord testified they still suffered a loss of \$800.00 which was negotiated as a move-in incentive in order to fill the vacancy as soon as possible.

The landlord testified that the tenant failed to leave the home in reasonably clean and undamaged condition. The landlord submitted a copy of the move-in and move-out inspection reports, photos, quotations, and invoices in support of their claim. The landlord testified that they obtained multiple quotations for repair of the laminate flooring,

and submitted the lowest quotation. The landlord testified that the repairs are still pending as the new tenants wanted to move in immediately, and as they are health care workers, the repairs have been delayed to minimize contact and risk associated with Covid-19.

Analysis

Section 45(2) deals with a Tenant's notice in the case of a fixed term tenancy:

45 (2) *A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that*

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) 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.

As the monthly rent was due on the first of the month, the last date the tenant may give the landlord notice for an effective move out date of August 31, 2020 was on July 31, 2020. I find that the tenant did not give proper notice as required by section 45(2) of the Act.

I find that due to the tenant's contravention of the Act, the landlord did not have sufficient notice to fill the vacancy for the month of September 2020. The evidence of the landlord is that they were able to re-rent the suite for September 1, 2020, but had to negotiate an \$800.00 incentive. I am satisfied that this incentive was given by the landlord in an effort to mitigate the tenant's exposure to the landlord's monetary loss of rent for the month of September 2020, as is required by section 7(2) of the Act. On this basis, I allow the landlord's monetary claim of \$800.00.

Section 37(2)(a) of the Act stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlord provided sufficient evidence to show that the tenant did not take reasonable care and attention when vacating the suite. I find that the landlord complied with sections 23 and 35 of the Act by performing condition inspection reports for both the move-in and move-out. I also find that the landlord supported their

claims with detailed evidence in addition to the move-in and move out reports, including photos, receipts, and estimates. Although the landlord was only able to provide an estimate for the laminate repair, I find that the landlord provided a reasonable explanation for why this repair has not yet been completed. I also find that the landlord submitted the lowest quote for the repairs, which I find to be a reasonable estimate of the cost of repairs. Accordingly, I find the landlord is entitled to compensation for these losses as claimed.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain a portion of the tenant's security deposit in partial satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$2,300.78 in the landlord's favour under the following terms which allows a monetary award for damage and losses associated with the tenant's failure to comply with the *Act*.

Item	Amount
General & Carpet Cleaning	\$280.00
Painting – 3 walls	200.00
Quotation for repair/replacement of damaged laminate flooring	1,895.78
Move-in incentive for new tenant	800.00
Filing Fee	100.00
Less Security Deposit Held by Landlord	-975.00
Total Monetary Order	\$2,300.78

The landlord is provided with this Order in the above terms and the tenant must be served with a copy of 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: January 11, 2021