



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- a monetary order for unpaid rent and 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 1:44 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord 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 and I were the only ones who had called into this teleconference.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord gave sworn testimony that on the tenant was personally served with his dispute resolution package and evidence on October 8, 2020 when the tenant attended the landlord's residence to pick up her belongings. The landlord testified that Constable WN was present to witness the service. In accordance with sections 88 and 89 of the

Act, I find that the tenant duly served with copies of the landlord's application and evidence package.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and losses?

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

Background and Evidence

This tenancy originally began as a fixed-term tenancy on September 1, 2019, and continued on a month-to-month basis until the tenancy ended on October 5, 2020. Monthly rent was set at \$1,825.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$800.00, which the landlord still holds.

The landlord is requesting a monetary order for the following items:

Unpaid Rent August 2020 – September 2020	\$3,650.00
Loss of Rent October 2020	1,825.00
Cost of Cleaning, dump fees, paint	500.00
Total Monetary Award Requested	\$5,975.00

The landlord testified that the tenant moved out without paying the monthly rent for August and September 2020. The landlord testified that due to the condition the tenant left the suite in, he was unable to re-rent the suite for October 2020. The landlord is seeking a monetary order for the unpaid rent and lost rental income.

The landlord testified that the tenant failed to leave the home in reasonably clean condition. The landlord testified that he was unable to schedule a move-out inspection with the tenant. The landlord submitted photos to show the condition of the suite. The landlord originally filed a monetary claim for the damages and losses in the amount of \$4,250.00, but did not submit any copies of invoices or receipts in support of his claim. The landlord reduced his monetary claim to \$500.00 as he felt this was a reasonable estimation of some of the losses he suffered due to the tenant's contravention of the Act. The landlord testified that he had to clean, remove, and dispose of the tenant's garbage, as well as repaint the suite. The landlord testified that he had to perform numerous repairs to the damage caused by the tenant during this tenancy.

Analysis

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 condition except for reasonable wear and tear. I find that the landlord provided sufficient evidence to support that the tenant failed to leave the home in reasonably clean and undamaged condition. I find the landlord's reduced monetary claim to be reasonable to cover the losses described, and accordingly, I allow the landlord's monetary claim of \$500.00 to cover the cost of cleaning, repairs, and removal of the garbage left by the tenant.

Section 26 of the *Act*, in part, states the following about payment of rent:

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I accept the landlord's undisputed testimony that the tenant failed to pay the monthly rent for August and September 2020. Accordingly, I allow the landlord's monetary claim for unpaid rent.

I also accept the landlord's undisputed testimony that due to the condition of the suite, the landlord suffered a loss of rental income for October 2020 as he was unable to re-rent the suite. Accordingly, I allow the landlord a monetary order equivalent to the monthly rent for the month of October 2020.

As the landlord's application had merit, I allow the landlord to recover the filing fee for this application.

The landlord continues to hold the tenant's security deposit of \$800.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$5,275.00 in the landlord's favour as set out in the table below.

Unpaid Rent August 2020 – September 2020	\$3,650.00
Loss of Rent October 2020	1,825.00

Cost of Cleaning, dump fees, paint	500.00
Filing Fee	100.00
Less Security Deposit Held	-800.00
Total Monetary Award	\$5,275.00

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) 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 28, 2021

Residential Tenancy Branch