



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damages to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by registered mail on October 18, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials on October 23, 2020. The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy under written agreement started on April 1, 2020 to end March 31, 2021. Rent of \$2,900.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,450.00 as a security deposit. The addendum contains a liquidated damages clause for \$1,450.00. On August 21, 2020 the Landlord served the Tenants with a one month notice to end the tenancy for cause (the "Notice"). The Tenants paid September 2020 rent, did not dispute the Notice and moved out of the unit on October 2, 2020.

The Landlord provides a revised monetary order worksheet for its claims herein.

The Tenants failed to pay rent for August 2020 and the Landlord claims \$2,900.00.

The Tenants left the unit unclean leaving behind articles and garbage. The Landlord claims \$390.60 as the cost of cleaning and provides photos and a receipt for this cost. The Landlord also provided a copy of the move-out inspection report.

The Tenants left the blind rollers broken and the Landlord claims \$100.00 for the replacement costs.

The Tenants ended a fixed term tenancy and the Landlord claims liquidated damages of \$2,900.00. The Landlord clarifies that the claim for liquidated damages is \$1,450.00 and that the additional \$1,450.00 is for the lost rental income in October 2020 caused by the damages and unclean unit. The Landlord states that it advertised the unit on two online sites on September 1, 2020 for monthly rent of \$2,500.00. The Landlord states that the unit was re-rented for December 1, 2020.

The Landlord states that the Tenant caused a leak in the unit that damaged the unit below it. The Landlord states that the Tenants left food on dishes that were placed in the dishwasher and that this food blocked a pipe causing a leak from the connector

between the dishwasher and the garburator. The Landlord provides a report from the repair person for this leak. The Landlord claims \$2,878.45 as the repair costs for the damages to the lower unit. The Landlord provides an invoice sent to it from the strata. The Landlord paid these costs to the strata on August 27, 2020. The Landlord did not claim the repair costs against their insurance as the deductible of \$3,000.00 was higher than the damage costs.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the Landlord's undisputed evidence of unpaid August 2020 rent I find that the Landlord has substantiated an entitlement of **\$2,900.00**.

Section 37 of the Act provides 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. Given the Landlord's supported and undisputed evidence of the state of the unit at move-out I find that the Landlord has substantiated that the Tenants failed to leave the unit reasonably clean and left the blind rollers damages. The Landlord is therefore entitled to the costs claimed of **\$390.60** and **\$100.00**.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Given the undisputed terms of the tenancy agreement containing the liquidated damages amount and that the fixed term tenancy was ended for cause without dispute by the Tenants, I find that the Landlord has substantiated an entitlement to the liquidated damages amount of **\$1,450.00**. Based on

the Landlord's undisputed and supported evidence of the state of the unit at move-out and the Landlord's undisputed evidence of reasonable mitigation efforts by advertising the unit for a lower rental rate, I find that the Landlord is entitled to the lost rental income of **\$1,450.00**.

Based on the Landlord's undisputed evidence that the Tenants caused, by their negligence, a leak that damaged the unit below, and given the Landlord's undisputed evidence of the repair costs and insurance deductible I find that the Landlord has substantiated its claim to **\$2,878.45**.

As the Landlord's claims have been successful, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$9,269.05**. Deducting the security deposit plus zero interest of **\$1,450.00** from this amount leaves **\$7,819.05** owed by the Tenants to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of **\$1,450.00** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining **\$7,819.05**. If necessary, 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 Act.

Dated: February 3, 2021

Residential Tenancy Branch