



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding K and G Claire Holdings Ltd and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDL-S, MNRL-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 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 tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 pm. The landlord's agent, DS ("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's agent and I were the only ones who had called into this teleconference.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package ('Application') and evidence on package on October 22, 2020 by way of registered mail. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88 and 89 of the *Act*, I find that the tenants deemed served with the landlord's application and evidence on October 27, 2020, 5 days after mailing. The tenants 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 tenants?

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 tenancy began on March 21, 2019. After one of the tenants moved out, the tenants signed a new fixed-term tenancy agreement for a tenancy from May 1, 2020 to April 30, 2021. Monthly rent was set at \$1,230.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$600.00, which they still hold. The tenants moved out on September 30, 2020 after giving notice on September 12, 2020. The landlord testified that they were able to recover some of the losses for October 2020 rent by re-renting the suite for October 15, 2020 for \$1,200.00 per month.

The landlord provided the following list of damages and losses for their monetary claim.

Item	Amount
Cleaning	\$80.00
Repairs	160.00
Lock Damage	120.00
Loss of Rent- 15 days	515.00
Unreturned FOB	75.00
Filing Fee	100.00
Total Monetary Order Requested	\$1,050.00

The landlord testified that the tenants failed to leave the home in reasonably clean and undamaged condition. The landlord is also seeking a monetary order for the unreturned FOB. The landlord provided a copy of the move-in and move-out inspection reports, receipts and photos in support of their claim.

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.

I find that the tenants did not end the tenancy in a manner that complies with the *Act*, as stated above. The landlord did not mutually agree to end this tenancy in writing, nor did the tenants obtain an order from the Residential Tenancy Branch for an early termination of this fixed term tenancy. No application for dispute resolution have been filed by the tenants. The tenants moved out earlier than the date specified in the tenancy agreement. I find that the landlord made an effort to mitigate the tenants' exposure to the landlord's monetary losses as is required by section 7(2) of the *Act*, and but suffered a monetary loss of half a month's rent. I, therefore, allow the landlord's monetary claim for loss of rental income in the amount of \$515.00.

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 tenants did not take reasonable care and attention when vacating the home. I find that the landlord provided detailed evidence to support the losses claimed, including a copy of the move-in and move-out inspection reports, photos, as well as receipts for the losses claimed. Accordingly, I find the landlord is entitled to compensation for these damages.

I accept the landlord's undisputed testimony that the tenants failed to return the FOB. Accordingly, I allow the landlord's monetary claim of \$75.00 for the unreturned FOB.

The landlord continues to hold the tenants' security deposit of \$600.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit of \$600.00 in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I am allowing the landlord to recover the filing fee from the tenants.

Conclusion

I issue a Monetary Order in the amount of \$450.00 in the landlord's favour under the following terms which allows a monetary award for money owed, as well as the losses associated with the tenants' failure to comply with the *Act*.

Item	Amount
Cleaning	\$80.00
Repairs	160.00
Lock Damage	120.00
Loss of Rent- 15 days	515.00
Unreturned FOB	75.00
Filing Fee	100.00
Less security deposit held	-600.00
Total Monetary Order	\$450.00

The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible. Should the tenants 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: February 1, 2021

Residential Tenancy Branch