



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

On October 26, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid rent and for damages, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlords and the Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing.

Preliminary Matter – Evidence

The Tenant stated that she sent her evidence to the Landlords via text on November 5, 2020. The Landlords responded to the Tenant and advised her to send it in accordance with the Act. The Tenant acknowledged that she did not follow up with the Landlords and did not provide the Landlords with another evidence package.

At the hearing, all parties must be prepared to demonstrate to the satisfaction of the arbitrator that the other party was served with all the evidence as required by the Act and the Rules of Procedure. In this case, I find that the Tenant did not serve her evidence package pursuant to the Act and therefore, I find that the Tenant’s evidence is not admissible during this hearing.

The Landlords testified that they submitted a 31-page evidence package to the Residential Tenancy Branch on October 30, 2020. At first, I could not locate this package within the electronic evidence submissions; however, found the package dated October 30, 2020 a short way into the hearing. The evidence package contained 14 pages and included the Landlords’ amendments, the Tenancy Agreement and three pictures.

Issues to be Decided

Should the Landlords receive a Monetary Order for unpaid rent, in accordance with section 67 of the Act?

Should the Landlords receive a Monetary Order for damages, in accordance with section 67 of the Act?

Should the Landlords be authorized to apply the security deposit to the claim, in accordance with sections 38 and 72 of the Act?

Should the Landlords be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties agreed to the following terms of the tenancy:

The one-year, fixed-term tenancy began on July 15, 2020. The rent was \$1,200.00 and due on the first of each month. The Landlords collected and still hold a security deposit in the amount of \$600.00.

The Landlords testified that on October 1, 2020, the Tenant provided them with notice, via text message, that she planned to move out of the rental unit on October 15, 2020 due to health concerns. The Landlords stated that they were okay with this and provided the Tenant with permission to end the tenancy early and only pay half the amount of rent for the month of October 2020.

The Landlords stated that the condition to permit the Tenant to end the tenancy early without penalty was that the Tenant had to pay the balance of the plumbing bill, of which she had already paid \$250.00, and still had \$213.50 outstanding. The Landlords submitted several plumbing bills that were difficult to read and added up to more than they claimed.

The Landlords testified that the Tenant did pay half of October 2020 rent and moved out on October 15, 2020 but did not pay the balance of the plumbing bill.

The Landlords testified that the Tenant requested the Landlords provide receipts for the balance of the plumbing bill. The Landlords stated that the Tenant became aggressive and threatened to take them to court and as a result of the Tenant failing to cooperate, the Landlords are claiming that the Tenant provided short notice to end the tenancy and

are claiming losses of rent for the last half of October and the month of November 2020, for a total of \$1,800.00.

The Landlords submitted that, as a result of the plumbing issue with the toilet, the laminate flooring in the kitchen became damaged and had to be replaced. The Landlords submitted a quote and are claiming a loss of \$1,200.00.

The Landlords acknowledged that no move-in or move-out inspections were conducted with the Tenant and no condition inspection reports were completed. The Landlords did not submit any pictures of the damaged flooring.

The Tenant testified that she was not responsible for the backed-up toilet and the subsequent losses of the Landlord. The Tenant acknowledged she paid \$250.00 towards the plumbing bill.

The Tenant stated that she dropped off the keys to the Landlords and they did not meet with her personally or conduct an inspection of the rental unit with her. The Tenant said there had never been any mention of damaged flooring and only heard about it when the Landlords made this claim.

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 the responsible 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 Applicant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the Tenancy Agreement or a contravention of the Act on the part of the other party. Once that has been established, the Applicant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed testimony of both parties that the Tenant provided notice to end the tenancy on October 15, 2020 and that the Landlords accepted the notice and half a month's rent for October 2020. The parties provided conflicting evidence regarding who was responsible for the plumbing bill; however, I find it compelling that the Tenant admitted that she had already made a payment towards the bill and that the Landlords stated that to pay the full amount was a condition of the Landlords' acceptance of the short notice to end the tenancy.

As such, and based on a balance of probabilities, I find that the agreement between the Tenant and the Landlords was as stated above. Therefore, to support the agreement, I find that the Landlords are not owed any further rent and the Tenant owes the Landlords the balance of the plumbing bill as claimed by the Landlords, in the amount of \$213.50.

I dismiss the Landlords' claim for unpaid rent and uphold the Landlords' claim for compensation for the balance of the plumbing bill.

The Landlords acknowledged there were no move-in or move-out condition inspection reports, did not provide any evidence as to the age or condition of the floors or how the Tenant was responsible for the alleged damage. As such, I find the Landlord failed to provide sufficient evidence that they incurred a loss, pursuant to section 67 of the Act. I dismiss the Landlords' claim for compensation for the damaged floors.

The Landlords have established a monetary claim, in the amount of \$313.50, which includes \$213.50 in compensation for the balance of the plumbing bill, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

Pursuant to section 72(2) of the Act, I authorize the Landlords to keep \$313.50 of the Tenant's security deposit, in full satisfaction of their monetary claim.

I order the Landlords to return the balance of the security deposit, in the amount of \$286.50, via registered mail, to the Tenant within 15 days of receiving this Decision. If the Landlords fail to return the deposit within 15 days, they may be at risk of owing double the amount of the deposit to the Tenant.

Conclusion

I order the Landlords to return the balance of the Tenant's security deposit within 15 days of receiving this Decision. If the Landlords fail to do so, they may be at risk of owing the Tenant double the amount of the security deposit.

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 03, 2021

Residential Tenancy Branch