



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Noble & Associates Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S, MNRL-S, MNDL-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 compensation - Section 67;
3. A Monetary Order for damage to the unit - 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 Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by registered mail on November 19, 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 Tenant is deemed to have received the Materials on November 24, 2020. The Landlord was 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 January 1, 2017 and ended on October 31, 2020. Rent of \$1,650.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$775.00 as a security deposit. The Parties mutually conducted a move-in inspection with a completed move-in report copied to the Tenant. The Landlord made three offers for October 30, 31 and November 5, 2020 for a move-out inspection, including posting a final notice and sending both emails and texts of the dates and time for the inspections. The Tenant did not respond to the offers or attend the move-out inspection and on November 5, 2020 the Landlord completed the inspection without the Tenant.

On October 20, 2020 the Tenant gave notice to end the tenancy for October 31, 2020 and provided its forwarding address. The Landlord advertised the unit the same day for rent of \$1,700.00. It is unknown when new tenants were found after the end of November 2020. The Landlord claims lost rental income of \$1,650.00 for November 2020.

The Tenant failed to leave the unit, including the carpets, clean. The Landlord claims \$315.00 for the costs to clean the unit and provides an invoice. The Landlord provides a copy of the move-out inspection and photos of the state of the unit at move-out.

The Tenant took a homeowner's manual and the Landlord claims \$50.00 for this loss. The Landlord did not pay for the manual originally and did not purchase a new manual as one cannot be purchased.

The Tenant damaged a glass door at the entrance of the building and the Landlord claims \$435.75 for the repair costs passed on to the Landlord from the Strata. The Landlord provides an invoice for these costs.

The Tenant breached a Strata bylaw requiring the fee of \$30.00 to rent a common BBQ area. The Tenant was given a copy of the bylaws with the tenancy agreement. The tenancy agreement provides that the Tenant is liable for strata fines and fees as provided in the Strata bylaws. The Tenant's cheque for this rental was returned NSF. The Landlord claims \$30.00 and provides an invoice.

The tenancy agreement provides for a fee of \$25.00 for each late rent payments. The Tenant paid rent late for April and May 2019. The Landlord claims \$50.00.

The Tenant owed rental arrears of \$1,800.00 and was given a repayment plan of \$200.00 per month for 9 months starting October 2020. The Tenant paid \$200.00 for the first payment due on October 2020 and owes the remaining \$1,600.00. The Landlord claims this amount.

Analysis

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. Rent is payable until a tenancy ends and a tenancy ends when a tenant moves out of the unit. Based on the undisputed evidence that the Tenant moved out of the unit on October 31, 2020 I find that no further rent was payable after this date. Based on the undisputed evidence that the Tenant did not give the Landlord a full month notice to end the tenancy I find that the Landlord has substantiated that the Tenant breached the Act. However given the Landlord's evidence of advertising the unit for a greater amount of monthly rent I find that the Landlord did not act to mitigate its losses from the Tenant's breach of the Act and I therefore dismiss the claim for lost rental income of \$1,650.00 for November 2020.

Based on the undisputed evidence that the Tenant was given a repayment plan for rental arrears of \$1,800.00 and only made the first payment of \$200.00 on October 1, 2020 I find that the Landlord has substantiated an entitlement to the remaining amount of **\$1,600.00**.

As the tenancy agreement provides for a \$25.00 late fee and based on the undisputed evidence that the Tenant paid its rent late on two months, I find that the Landlord has substantiated an entitlement to **\$50.00**.

As the tenancy agreement provides that the Tenant is liable for breaches of any Strata bylaws, as the Tenant was given a copy of those bylaws and as the Tenant failed to replace the returned cheque for a BBQ fee, I find that the Tenant breached the tenancy agreement and, given the invoice, that the Landlord has substantiated an entitlement to **\$30.00** for the fee.

Section 32(3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant. Based on the undisputed evidence of damage caused by the Tenant to the glass door and given the invoice to support the costs claimed, I find that the Landlord has substantiated an entitlement to the door repair costs of **\$435.75**.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean. Based on the undisputed and supported evidence that the Tenant failed to leave the unit reasonably clean and given the invoice, I find that the Landlord has substantiated an entitlement to **\$315.00** for cleaning costs.

As there is no evidence of any loss of original cost or replacement cost for the manual, I find that the Landlord has not substantiated the costs claimed for the manual. I dismiss this claim.

As the Landlord's application has met with substantial success, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,530.75**. Deducting the security deposit plus zero interest of **\$775.00** from this entitlement leaves **\$1,755.75** owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$775.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining **\$1,755.75**. 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: March 03, 2021

Residential Tenancy Branch