



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Oak West Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on November 24, 2020 seeking an order to recover the money for unpaid rent, and an order for compensation for damage to the rental unit. Additionally, the landlord seeks to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on March 16, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference all hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the landlord stated that they used Canada Post registered mail to send the Notice of Hearing to the tenant. This package included the evidence the landlord presents in this hearing. The landlord gave testimony that the address they provided on the registered mail package was that of the tenant’s forwarding address. They provided a Canada Post registered mail tracking number – this information appears in the landlord’s evidence. Using this tracking number, they verified that the package was delivered on December 4, 2020.

I accept the landlord’s undisputed evidence that the package was sent to the tenant via registered mail. Based on the submissions of the landlord, I accept they served notice

of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for recovery of rent, and/or compensation for damage pursuant to s. 67 of the *Act*?
- Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. Both parties signed the tenancy agreement on May 4, 2018. The monthly rental amount of \$1,800 increased to \$1,845 on June 1, 2019. The rent was payable on the 1st of each month. The tenant paid an initial security deposit of \$900.

The landlord provided background in the hearing involving their service of a 10-Day Notice to End Tenancy for Unpaid Rent to the tenant on September 2, 2020. This was for that month's rent amount of \$1,845. In the hearing, they explained that the tenant did not pay rent from May 2020 through to the end of the tenancy on October 1, 2020. After service of the 10-Day Notice, they discussed a payment plan with the tenant; however, the tenant was forthright in stating that the payment plan was not going to work given the amount left outstanding. The landlord provided a copy of the formal payment plan document in their evidence.

After this, the tenant agreed to move out on their own. They advised the landlord of this by phone call approximately one week in advance, prior to September 30, 2020. The landlord requested that the tenant attend for a formal inspection meeting; however, there was no response to this. The landlord received a message back from the tenant's parent who advised that personal circumstances prevented the tenant from attending any formal meeting with the landlord. The parent contacted the landlord later to advise that they left the rental unit keys with the building concierge on October 1, 2020.

After this, the landlord inspected the unit with neither the tenant nor their parent attending that meeting. This was their assessment of damages in the unit, as well as an assessment of the overall cleanliness.

The landlord completed a monetary order worksheet on November 24, 2020. This is an itemized list of expenses and losses.

They claim unpaid rent amounts for May through September 2020 for \$9,225 total. In the hearing they provided that May to August rent cheques were returned from the bank as “NSF”. They provided copies of these cheque images and bank statements “with 1 unpaid item” on that report for each of the months of May to August. The tenant did not pay any rent or forward any cheque for September.

The landlord added the amount of one single day rent, this for October 1. This was the day following the agreed-upon end of tenancy date. The landlord made attempts at messaging only to have no reply, they the tenant’s parent contacted the landlord to advise they returned the key to the concierge in the building on October 1. The extra day’s rent amount for this is \$59.52, based on the monthly rent divided by 31 days for the month.

The landlord set out their efforts at communicating to the tenant that a move-out condition inspection meeting needs to happen with both of them attending. They issued a notice for October 15, 2020 as the prospective date when this meeting could occur, this after they received the tenant’s notice that the tenancy would end. In the hearing the landlord set out how they received no response or acknowledgement from the tenant of this, and then the only communication back was from the tenant’s parents advising that the rental unit key was left with the concierge.

The landlord also made a claim for cleaning and repairs needed after the tenancy ended. In the hearing, the landlord described this list to say these are “just items that the landlord clearly felt were the tenant’s responsibility.” These items, totalling \$361.79, are:

move-out cleaning	\$236.25
light bulb fee	\$41.54
disposal and sticker removal	\$84.00

A receipt dated October 16, 2020 from the cleaning company hired shows “appliances” and “move out cleaning” for the total of \$236.25. The landlord provided 21 photos the

show miscellaneous parts of the rental unit needing cleaning. These photos are from the move out condition inspection that the landlord conducted on their own on October 2, 2020.

A "Work Report" shows work started on October 3, 2020 and ended on October 26, 2020. This includes a number of items; however, the landlord only claims for light bulbs, for "multiple bulbs burnt out throughout the suite, and replaced with new". The "disposal" refers to left over items in the unit including household cleaners, an ironing board and kitchen items. Additionally, there were "multiple stickers/hooks removed throughout the suite." The lightbulbs, and then the labour and disposal are listed as separate items on a total expenditure worksheet.

Additionally, the landlord requests repayment for the replacement cost of the fobs for the rental unit. This is a "fob purchase" from the concierge for \$75, completed on November 25, 2020.

Adding a \$100.00 Application filing fee for this hearing, the total amount of the landlord's claim is **\$9,821.31**.

Analysis

The *Act* s. 37(2) requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys and other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As set out above, the landlord's worksheet identifies four separate amounts: recovery of rent amounts; cleaning costs, and replacement items. To determine the landlord's

eligibility for compensation, I carefully examine the evidence they have presented for each item, to establish whether they have met the burden of proof.

For each amount presented, I find the landlord has verified the amount in question and provided proof that the amount owing is in relation to the tenancy. As a result, I find the total amount of \$9,821.31 in full is that owing from the tenant to the landlord. I make the award for this full amount to the landlord.

The landlord has properly made a claim against the security deposit and have the right to do so. The landlord is holding this amount of \$900. I order this amount deducted from the total of the rent, cleaning and replacement item costs set out above. Reducing the total by \$900 brings the total monetary order to \$8,921.31. Applying the security deposit to an amount owing is permissible by s. 72(2)(b) of the *Act*.

Conclusion

Pursuant to ss. 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$8,921.31 for compensation set out above and the recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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 s. 9.1(1) of the *Act*.

Dated: March 17, 2021

Residential Tenancy Branch