



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Arc Real Estate Development Group
Ltd and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNRL, MNDCL, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for damages and loss pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on December 9, 2020 and subsequently in person on December 10, 2020. The landlord submitted valid Canada Post tracking receipts as well as a sworn statement as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on December 14, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This periodic tenancy began in August 2019. The monthly rent was \$1,800.00 payable on the first of each month. Pursuant to the signed tenancy agreement the tenant is also responsible for paying utilities for the rental unit. A copy of the tenancy agreement was submitted into evidence. The landlord submits that there is a rental arrear of \$3,100.00 and a utility arrear of \$252.82 as at the date of the hearing.

The tenancy ended in accordance with an Order of Possession issued after an earlier hearing under the file numbers on the first page of this decision. The landlord submits that the tenant failed to vacate the rental unit in accordance with the Order of Possession and they incurred costs to enforce the Order through the court. The landlord submits that the cost of enforcing the Order and obtaining vacant possession was \$2,318.45. The landlord submitted receipts for the bailiff and court fees as evidence of their losses.

The landlord says that they incurred costs for cleaning, garbage disposal and maintenance of the rental unit after they obtained possession due to the condition caused by the tenant. The landlord submits that the total costs related to restoring the rental unit to its pre-tenancy condition is \$350.00.

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

I accept the undisputed evidence of the landlord that the tenant failed to pay rent and utilities as required under the tenancy agreement and there is an arrear as at the date of the hearing of \$3,352.82. I issue a monetary award in that amount accordingly.

I accept the evidence that the tenant failed to vacate the rental unit as required under the Order of Possession and caused the landlord to incur costs to obtain vacant

possession. I am satisfied with the evidence by way of receipts that the cost was \$2,318.45 and issue a monetary award in that amount accordingly.

I find the landlord has met their evidentiary burden to demonstrate that they incurred costs to clean and repair the rental unit due to the condition left by the tenant. I am satisfied with the evidence of the landlord including their testimony, documentary submissions and correspondence that the rental unit required work to restore to its pre-tenancy condition. I find the costs claimed by the landlord to be reasonable and proportional to the damage cited. I therefore issue a monetary award in the amount of \$350.00 as claimed.

As the landlord was successful in their application they are entitled to recover the filing fee for this application from the tenant.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$6,121.27. 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 23, 2021

Residential Tenancy Branch