



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **LL: OPM, FFL, MNDL, MNRL**
 TT: OLC

Introduction

This hearing dealt with applications from both the landlords and tenant pursuant to the *Residential Tenancy Act* (the “Act”).

The landlords applied for:

- An order of possession pursuant to section 55;
- Authorization to recover the filing fee from the tenant pursuant to section 72; and
- A monetary award for unpaid rent, damages and loss pursuant to section 67.

The tenant applied for:

- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62.

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 landlords attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlords gave evidence that they served the tenant with the notice of application and evidence by registered mail sent on January 11, 2021. The landlords submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord’s materials on January 16, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to any relief?

Are the landlords entitled to the relief sought?

Background and Evidence

The landlords provided undisputed evidence regarding the following facts. The rent for this periodic tenancy was \$2,050.00 payable on the first of each month. A security deposit of \$1,075.00, half the monthly rent at the start of the tenancy, was collected and is still held by the landlord.

The tenant failed to pay rent for the month of February 2021 and subsequently abandoned the rental unit without proper notice or attending a move-out inspection. The landlords submit that the rental unit was left in a state of disrepair requiring considerable maintenance, repairs, cleaning and work.

Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

As the tenant did not attend the hearing to pursue their application, I dismiss the tenant's application in its entirety without leave to reapply.

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 as required under the tenancy agreement and there is an arrear of \$2,050.00 as at the date of the hearing.

I further accept the evidence of the landlord that they incurred costs for cleaning and repairs to the rental unit due to the condition left by the tenancy. I accept that the costs incurred are commensurate with the nature of the damage and the amount is, at least, \$1,075.00. Accordingly, I issue a monetary award in the landlords' favour in the amount of \$3,125.00.

As the landlords were successful in their application they are also entitled to recover the filing fee for their application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$2,150.00, allowing for the recovery of the unpaid rent, cost of work and the filing fee for their application and to retain the security deposit. 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 22, 2021

Residential Tenancy Branch