



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND-S, MNR-S, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- compensation for alleged damage to the rental unit by the tenant;
- authority to keep the tenant's security deposit to use against a monetary award;
- and
- recovery of the filing fee.

The landlord attended the hearing; however, the tenant did not attend.

The landlord stated he served the tenant with his application for dispute resolution and Notice of Hearing by registered mail on December 11, 2020. The landlord provided the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence. The Canada Post tracking number history shows the registered mail was collected on December 16, 2020.

The landlord was provided the opportunity to present his evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the

submissions are reproduced here; further, only the evidence specifically referenced by the landlord and relevant to the issues and findings in this matter are described in this Decision.

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of April 1, 2020, monthly rent of \$1,350, due on the 1st day of the month, and a security deposit of \$675 being paid by the tenant to the landlord.

The landlord retained the tenant's security deposit, having made this claim against it.

The monetary claim in the landlord's application was \$2,450, comprised of \$1,000 in damages, \$1,350 for unpaid monthly rent for November 2020, and recovery of the filing fee of \$100.

The landlord said he waived his claim for \$1,000, and wanted to proceed on his claim for \$1,350.

The landlord submitted that in October 2020, the tenant began moving her personal property out of the rental unit little by little. Although the tenant had removed most of her personal property in October, she failed to provide him the keys to the rental unit until November 26, 2020.

The landlord said that he could not change the locks to the rental unit earlier as the tenant had not removed all of her belongings.

The landlord claims a loss of rent revenue for the month of November 2020, due to the insufficient notice and the tenant's failure to move completely out of the rental unit and return the keys until November 26, 2020.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires

that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlord here, has the burden of proof to substantiate their claim on a balance of probabilities.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

On the basis of the undisputed evidence, I find that the tenant breached the Act and the tenancy agreement by failing to return the keys to the rental unit to the landlord at the end of October 2020. Instead, she left some belongings in the rental unit until sometime in November and did not return the keys to the landlord until November 26, 2020.

Due to this breach, I find the landlord submitted sufficient evidence to show that the tenant's actions caused him to lose rent revenue for the month of November 2020. I therefore find the landlord has established a monetary claim of 1,350.

Due to the landlord's successful application, I award the landlord recovery of his filing fee of \$100.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$775.00 under the following terms:

ITEM	AMOUNT
1. Loss of rent for November 2020	\$1,350.00
2. Filing fee	\$100.00
3. <i>Less security deposit</i>	<i>-\$675.00</i>
TOTAL MONETARY ORDER	\$775.00

The landlord is provided with this order in the above terms. Should the tenant fail to voluntarily comply with the terms of this Decision, the monetary order must be served to the tenant. 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