



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCL-S, MNDL-S, 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;
- Authorization to retain the security deposit for this tenancy pursuant to section 38; 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 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 November 18, 2020 to the forwarding address provided by the tenant. The landlord 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 November 23, 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 retain the security deposit for this tenancy?

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

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This periodic tenancy began in August 2019. Monthly rent was \$1,600.00 payable on the first of each month. A security deposit of \$800.00 and pet damage deposit of \$800.00 were collected at the start of the tenancy and are still held by the landlord.

The tenant gave notice to the landlord to end the tenancy on or about October 14, 2020 and vacated the rental unit at the end of October 2020. The tenant did not pay rent for the month of November.

The landlord says that the rental unit required some cleaning and maintenance after the tenant had provided vacant possession. The tenant provided their forwarding address to the landlord in writing on or about October 31, 2020.

The landlord testified that they are seeking a monetary award and authorization to retain the deposits for this tenancy but waive their right to any monetary claim above the amount of the deposits.

Analysis

Section 45 of the *Act* explains that a tenant may end a periodic tenancy by giving the landlord notice on a date not earlier than one month after the date the landlord receives the notice.

I find that, as the tenant gave notice of their intention to end the tenancy on October 14, 2020 the effective date of the end of tenancy was November 30, 2020. I find that the tenant remained obligated to pay the monthly rent in the amount of \$1,600.00 on November 1, 2020. I accept the evidence of the landlord that the tenant failed to pay the full rent on that date.

Section 67 of the *Act* states, if damage or loss results from a party not complying with this Act, the regulations or a *tenancy agreement*, the director may determine the amount of, and order that party to pay, compensation to the other party. I find that a violation of the tenancy agreement occurred by the tenants who failed to pay the full rent owing on

November 1, 2020. Therefore, the landlord is entitled to a monetary award in the amount of \$1,600.00, the equivalent of one month's rent.

I accept the undisputed evidence of the landlord that they incurred some costs for cleaning and maintenance of the rental unit and that the amount of their losses is \$1,000.00. I am satisfied with the photographs submitted and testimony of the landlord that there is a preponderance of evidence demonstrating some losses were incurred. Accordingly, I issue a monetary award in the landlord's favour in the amount of \$1,000.00.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$800.00 security deposit and \$800.00 pet damage deposit in satisfaction of the monetary award issued in the landlord's favour.

The landlord has waived their right to a monetary award above the amount of the deposits held. Accordingly, I will not issue a monetary order for the balance of the landlord's successful claim.

Conclusion

The landlord is authorized to retain the security deposit of \$800.00 and pet damage deposit of \$800.00 for this tenancy.

The landlord has waived their right to the balance of their monetary claim.

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 1, 2021

Residential Tenancy Branch