



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for loss or other money owed and to recover the cost of the filing fee.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on November 21, 2020, and successfully delivered to the tenant on November 24, 2020.

I find that the tenant has been duly served in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?

Background and Evidence

The tenancy began on September 1, 2019. Rent in the amount of \$1,070.00 was payable on the first of each month. The tenant paid a security deposit of \$475.00. The tenancy ended on August 27, 2020.

The landlord's agent testified that the tenant had permission to sublet the premise; however, they were informed that they are responsible for their subtenant's.

The landlord's agent testified that they were notified on June 25, 2020, by another renter, living underneath the tenant's unit that there was water leaking through their ceiling.

The landlord's agent testified upon investigation on June 26, 2020, that they found out that the tenant's subtenant had overflowed the toilet, flooding the bathroom on June 24, 2020, two days earlier. The agent stated that the tenant's subtenant cleaned up the water from the flood; however, they were never notified of this incident until the water was leaking into the other rental unit.

The landlord's agent testified that had they been informed on the day of the flood they would have been able to mitigate any further damage. The agent stated that the tenant's and the tenant's subtenant's action was neglectful, causing the damage.

The landlord's agent testified that because of this neglect they had to bring in a restoration company to make the repairs. The landlord seeks to recover the cost of the damage in the amount of \$2,928.24.

The landlord's agent testified that the tenant was going to look into their tenant's insurance to cover the damage; however, they have now stopped communication.

Filed in evidence are emails correspondence between the parties. Filed in evidence is a receipt for the repairs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this matter the tenant was served with the landlord's application for dispute resolution. As the tenant did not appear, I find it reasonable to conclude that the claim for monetary compensation is not disputed.

I accept the undisputed testimony of the landlord's agent that the tenant's action of not notifying the landlord of a flood in the bathroom on June 24, 2020, resulted in damage to a lower unit. While I accept this was caused by the tenant's subtenant, they are responsible for all actions or neglect of their subtenant. Therefore, I find the landlord is entitled to recover the loss in the amount of **\$2,928.24**.

I find that the landlord has established a total monetary claim of **\$3,028.24** comprised of the above described amount and the \$100.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order.

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 08, 2021

Residential Tenancy Branch