



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL-S, MNRL-S, MNDCL-S, FFL**

Introduction

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

- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this teleconference hearing, which lasted approximately 15 minutes. The line remained open for the duration of the hearing. The landlord attended and was given a full opportunity to be heard, to present affirmed 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 to the forwarding address provided by the tenant on December 19, 2020. 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 December 24, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the Act. I note that pursuant to Residential Tenancy Policy Guideline 12 the refusal of a party to accept or pick up the registered mail does not override the deeming provisions of the Act.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?
Are the landlords entitled to retain the deposit for this tenancy?
Are the landlords entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This periodic tenancy began in August 2019. Monthly rent was \$1,850.00 payable on the first of each month. A security deposit of \$925.00 was collected at the start of the tenancy and is still held by the landlord. The rental unit is a suite in a strata-managed multi-unit building.

The landlord submits that the tenant failed to pay the full rent payable under the tenancy agreement for several months of this tenancy and there is a rental arrear of \$9,550.00 as at the date of the hearing. The landlord submitted a ledger showing rent owing and paid as evidence of the arrear.

The tenant vacated the rental unit without providing notice to the landlord on or about November 28, 2020. The parties prepared a move-out inspection report on December 1, 2020 wherein the tenant provided a forwarding address. The landlord testified that the rental unit required some cleaning to restore to its pre-tenancy condition. The landlord submitted the condition inspection report listing the deficiencies, photographs of the unit showing the areas requiring cleaning, and a receipt from a cleaning company as evidence of the damages. The landlord submits they incurred a cost of \$328.13 as a result of the tenant's failure to clean the rental unit.

The landlord submits that the tenant incurred several fines from the strata corporation for a number of health and safety violations during their tenancy. The tenant failed to pay the fines. The landlord incurred costs paying the fines to the strata corporation. The landlord submits that the total amount of the fines was \$600.00. The landlord submitted into evidence copies of correspondence from the strata corporation and the strata ledger in support of this portion of their monetary claim.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

I accept the undisputed evidence of the landlord that the tenant incurred fines from the strata corporation of \$600.00 due to their breach of rules. I therefore issue a monetary award in that amount to the landlords.

I accept the evidence that the monthly rent is \$1,850.00 and that the tenant failed to pay the full rent for several months of the tenancy. I accept that there was an arrear of \$7,700.00 for unpaid rent for this tenancy. I issue a monetary award in that amount accordingly.

I further accept that the tenant vacated the rental unit without provided notice to the landlord on November 27, 2020. I find that pursuant to sections 45(2)(a) and 26 were obligated to pay rent in the amount of \$1,850.00 on December 1, 2020 but failed to do so. I therefore find that the landlord is entitled to a monetary award in the amount of \$1,850.00.

I accept the evidence of the landlord that the rental unit required some cleaning due to the tenant's failure to maintain the rental unit and that the cost of restoring the suite was \$328.13. I issue a monetary award in that amount accordingly.

As the landlords' application was successful the landlords 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 \$925.00 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 \$9,653.13 under the following terms, which allows the landlord to recover unpaid rent, strata fines and the filing fee for their application:

Item	Amount
Unpaid Rent	\$9,550.00
Strata Fines	\$600.00
Cleaning Costs	\$328.13
Filing Fees	\$100.00
Less Security Deposit	-\$925.00
Total Monetary Order	\$9,653.13

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: April 22, 2021

Residential Tenancy Branch