



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL, MNDCL, MNRL, 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; 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.

At the outset of the hearing a typographic error in identifying the municipality of the rental address was corrected. The corrected address is used in the style of cause for this decision.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on February 12, 2021. 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 February 17, 2021, 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 recover their filing fee from the tenant?

Background and Evidence

This periodic tenancy began in March 2020. The monthly rent was \$1,200.00 payable on the first of each month. A security deposit of \$600.00 and pet damage deposit of \$600.00 were collected and are still held by the landlord. The signed addendum to the tenancy agreement provides that a \$25.00 late fee is payable for any rent not paid by the first of each month.

The landlord submits that the tenant abandoned the rental unit sometime in January 2021 after failing to pay rent for that month. The tenant subsequently failed to pay rent for February 2021. The landlord seeks a monetary award in the amount of \$2,450.00 for unpaid rent and late fees for the months of January and February 2021.

The landlord attempted to contact the tenant to schedule a move-out condition inspection report but the tenant failed to respond or attend. The landlord conducted a move-out inspection in their absence and noted that the rental unit required considerable, cleaning, repairs and maintenance to restore to its pre-tenancy condition. The landlord submits that the tenant left considerable items and garbage in the rental unit requiring disposal, that they broke the shower head, caused damage to the walls and floors of the rental unit and damaged appliances. The landlord submitted into documentary evidence a copy of the condition inspection report, numerous photographs of the rental unit and invoices for the work performed. The landlord submits that the total cost of cleaning, repairs and work to the rental unit is \$6,625.60.

Analysis

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 that there is an arrear of rent and late fees

of \$2,450.00 as at the date of the hearing. I issue a monetary award in the landlord's favour for that amount accordingly.

I am satisfied with the evidence of the landlord including their undisputed testimony and documentary materials that the tenant caused considerable damage to the rental unit requiring repairs and cleaning. I find that the damage noted in the condition inspection report and the photographs demonstrate that this was more than simple wear and tear as expected from a tenancy. I find the nature and extent of the damage demonstrated to be significant and the work performed by the landlord to be reasonable and proportional to the damage. I find that the expenditures incurred by the landlord were reasonable and necessary to restore the rental unit to its pre-tenancy condition. I therefore issue a monetary award in the landlord's favour in the amount of \$6,625.60 as claimed.

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 security and pet damage deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$7,975.60, allowing for the recovery of the rental arrear, damages and loss and filing fees for this application and to retain the security and pet damage deposits.

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: June 4, 2021

Residential Tenancy Branch