



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- A monetary award for unpaid rent, 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 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 to the forwarding address provided by the tenant. The landlord submitted a valid Canada Post tracking information showing the materials being sent on February 23, 2021 as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on February 28, 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 retain the security deposit for this tenancy?
Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

The landlord gave undisputed evidence regarding the following points. This periodic tenancy began in 2018. A security deposit of \$800.00 was collected at the start of the tenancy and is still held by the landlord. The monthly rent at the end of the tenancy was \$1,640.00 payable on the first of each month.

The tenant failed to pay full rent as required under the tenancy agreement and there is a rental arrear of \$1,818.00 as at the date of the hearing. The landlord submitted copies of the rental ledger and correspondence as evidence in support of their claim.

The tenant failed to attend a move-out condition inspection at the date and time the parties had agreed to on February 1, 2021. The landlord completed the move-out inspection in the tenant's absence and found some areas requiring cleaning, maintenance and repairs. The landlord submits that the total cost of the work done to restore the rental unit to its pre-tenancy condition is \$653.50. The landlord submitted the condition inspection report, photographs and copies of invoices for the work as evidence of the costs.

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 was obligated to pay monthly rent in the amount of \$1,640.00 on the first of each month and that they failed

to pay. I accept that there was a rental arrear of \$1,818.00 as supported in the ledger and repayment plan and issue a monetary award in that amount accordingly.

I accept the undisputed evidence of the landlord that there were some issues with the rental unit at the end of the tenancy requiring cleaning and repairs. I am satisfied with the evidence by way of the condition inspection report completed by the landlord in accordance with section 35 of the *Act* and the receipts from third party service providers showing the costs incurred. I find that the nature of the work done to be reasonable and proportional to the damage noted in the report and performed for the purpose of restoring the rental unit to its pre-tenancy condition. I therefore issue a monetary award in the landlord's favour in the amount of \$653.50 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 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 \$1,771.50, allowing for recovery of the unpaid rent, costs of work and filing fees and to retain the security deposit for this tenancy. 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 28, 2021

Residential Tenancy Branch