



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ARBUTUS DEVELOPMENTS
LTD. and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

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

- authorization to retain the security deposit as per section 38;
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenants. The landlord submitted documentary evidence that the tenants were served notice of this application and this hearing by e-mail. The landlord was granted an order allowing email service on March 25, 2021 for which they served DB on March 26, 2021 and an order allowing email service for JB on April 21, 2021 for which they served on April 23, 2021. The landlord was granted permission to serve the tenants by email pursuant to orders granted by an Adjudicator. Based on the submissions of the landlord, I find the tenants were served in accordance with section 89 of the *Act*. Therefore, I continued in the absence of the tenants.

Issue to be Decided

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim.
Is the landlord entitled to a monetary award for losses arising out of this tenancy?
Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on June 15, 2014 and ended on March 1, 2021. The tenants were obligated to pay \$2507.15 per month. The tenants paid a security deposit of \$1075.00 which the landlord still holds. The landlord testified that the tenants did not pay their rent in full dating back to the start of the Covid – 19 pandemic in April 2020. The landlord testified that the tenants vacated the unit sometime in March 2021 without notice. The landlord testified that the tenants owe \$14359.20 in rent. The landlord testified that the tenants also left the unit dirty with excessive garbage and some small damage to walls that required repairs. The cleaning, garbage cleanup, lightbulbs replacement and miscellaneous repairs cost \$1680.00. The landlord is also seeking the recovery of the \$100.00 filing fee for this application for a total claim of \$16,139.23.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord provided undisputed testimony, condition inspection reports, and extensive documentation to support their claim. I find that the landlord is entitled to the \$16,139.23 as claimed.

Conclusion

The landlord has established a claim for \$16,139.23. The landlord is entitled to retain the \$1075.00 security deposit in partial satisfaction. I grant the landlord an order under section 67 for the balance due of \$15,064.23. This order may be filed in the Small Claims 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: July 30, 2021

Residential Tenancy Branch