



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord: MNRL-S, MNDL-S, FFL
For the tenant: MNSDB-DR

Introduction

On March 5, 2021 the landlord applied for compensation for rent not paid, for damage to the unit, and reimbursement of the Application filing fee.

On March 26, 2021 the tenants (hereinafter the “tenant”) applied for the return of their security deposit and pet damage deposit. Their Application here was initially a Direct Request. The matter proceeded by way of a participatory hearing because this kind of application cannot be considered by that method when there is a prior application by the other party already in place.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on July 13, 2021. The landlord attended the telephone conference call hearing; the tenant did not attend.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with the notice of this hearing. This means the landlord must provide proof that the document was served in a verified manner allowed under s. 89 of the *Act* and I must accept that evidence. In the hearing the landlord stated that they provided a copy of the Notice of this Hearing, and their prepared documentary evidence, by registered mail on March 11. They provided proof of this in the form of an image of two registered mail labels showing tracking information. They provided another image showing the package envelopes that Canada Post returned to them. This means the registered mail to the tenant was unclaimed.

The landlord explained that the tenant gave them a forwarding address at the end of the tenancy. This is the address they used for service of the Notice and their evidence. I find the

landlord met the requirements of serving this information to the tenants; however, the tenant did not retrieve the information from the post office when notified to do so. I find the landlord effected service via s. 89(1)(c); however, the tenant did not pick this up or it was refused. With this, I find the registered mail was deemed received on March 16, 2021, the fifth day as provided for in s. 90(a). On this basis, I give the landlord's evidence full consideration in this hearing.

Reciprocally, the landlord stated in the hearing that they received the notice of the tenant's application, including their prepared evidence.

The tenant did not attend the hearing, although I left the teleconference hearing connection open until 2:00pm to enable them to call in to this teleconference hearing scheduled for 1:30pm. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Hearing generated when the tenants applied. I also confirmed throughout the duration of the call that the tenants were not in attendance.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply. On this basis, I dismiss the tenant's Application for the return of the security deposit and the pet deposit. They do not have leave to reapply on this issue.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for recovery of rent, and/or compensation for damage pursuant to s. 67 of the *Act*?
- Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. Both parties signed the agreement on August 26 and 27, 2020 for the tenancy starting on October 1, 2020. The fixed term of this agreement was set to end on September 21, 2021. The monthly rent amount was \$2,400, payable on the 1st of each month. The tenant paid both the security deposit of \$1,200 and the pet damage deposit of \$300.

The landlord explained that they issued a 10 Day Notice to End Tenancy for Unpaid Rent to the tenant on February 5, 2021. This gave a move-out date of February 15, 2021. This was for the rent amount due on February 1, 2021 in the amount of \$2,400, and the utilities amount then owing of \$59.83.

The landlord explained the circumstances by which the tenant moved out on February 28. The landlord arranged to do a walk-through inspection on February 28, to which the tenant answered at time that 1:00pm was satisfactory; however, they did not attend. The landlord then provided the following date of March 6; this time, the tenant attended with the landlord on that date.

Prior to the tenant's move out, they provided their forwarding address to the landlord. Additionally, the landlord provided a cleaning checklist to the tenant, listing all items for cleaning. This specified \$75 each for further cleaning needed if there was unsatisfactory or incomplete cleaning for the stove/oven and refrigerator. The document specified \$30 per hour for the "current market rate for cleaning" should the need for further cleaning be present.

The landlord listed the following items for compensation due to damage:

- the purchase of blinds at \$154.25 – they provided 6 pictures of damaged window blinds
- cleaning at \$180 – which is 6 hours of combined time, at \$30 per hour
- stove cleaning - \$75 as per the agreement

At the time of the Application, the landlord specified that the floor needed replacing. They provided photos to show this. At the hearing, the landlord clarified they were not seeking recompense for flooring.

In addition to these pieces of their monetary claim, the landlord listed the rent amount of \$2,400 owing. This was the rent amount for February 2021. This was the reason they issued the 10-Day Notice. The tenant had stated they were awaiting a grant; after this, the LL could not communicate with the tenant going forward.

The landlord added two invoice amounts for the water utility. These are for December through to February just prior to the end of the tenancy. The total of \$124.18 appears on the Monetary Order Worksheet.

In total, the landlord's claim for monetary compensation is \$2,933.43. This is set out in the Monetary Order Worksheet that they completed and signed on March 5, 2021. Adding a

\$100.00 Application filing fee for this hearing, the total amount of the landlord's claim is \$3,033.43.

Analysis

The *Act* s. 26 specifies that a tenant must pay rent when it is due, whether or not the landlord complies with the *Act*, the regulations, or the tenancy agreement. This applies in any situation.

The *Act* s. 37(2) requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys and other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As set out above, the landlord's worksheet identifies three separate amounts: recovery of rent amounts; recovery of utility amounts, and cleaning costs. To determine the landlord's eligibility for compensation, I carefully examine the evidence they have presented for each item, to establish whether they have met the burden of proof.

For the rent amounts owing, I find the landlord has verified the amount in question and provided proof that the amount owing is in relation to the tenancy. This was the reason for their issuance of the 10-Day Notice on February 5, 2021. As a result, I find the amount of \$2.400 satisfies the landlord's claim for rent owing; I so award this amount to the landlord via monetary order.

I find the landlord provided proof there was a loss for the amounts owing on utilities. I so award \$124.18.

I am satisfied the need for additional cleaning was present, this by their pictures provided that show the state of the rental unit throughout. This includes the replacement of the blinds that

were damaged, as well as the \$75 amount for cleaning the stove/oven. This amount is \$409.25.

The landlord has properly made a claim against the security deposit and has the right to do so. The landlord is holding the combined deposit amount of \$1,500. I order this amount deducted from the total of the rent and cleaning. Reducing the total by \$1,500 brings the total monetary order to \$1,433.43. Applying the security deposit to an amount owing is permissible by s. 72(2)(b) of the *Act*.

Because the landlord was successful in their Application, I grant the reimbursement of the \$100 Application filing fee.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1,533.43 for compensation set out above and the recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, the landlord may file this Order in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: July 16, 2021

Residential Tenancy Branch