



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, MNDCL, MNDL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord testified the landlord personally served the tenant with the Notice of Hearing and Application for Dispute Resolution on March 16, 2021. Considering the uncontradicted evidence of the landlord, further to section 89, I find the landlord served the tenant on March 16, 2021.

The tenant did not attend the hearing. The hearing process was explained, and the landlord was given an opportunity to ask questions about the process.

I kept the teleconference line open from the scheduled time for the hearing for an additional 15 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

Order of Possession

The landlord testified that an Order of Possession was granted February 25, 2021 under the file # referenced on the first page. The landlord retained the services of a bailiff and tenant vacated March 16, 2021.

Issue(s) to be Decided

Is the landlord entitled to the relief requested?

Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing.

The landlord testified to the background of the tenancy as follows:

ITEM	DETAILS
Written tenancy agreement	yes
Copy of agreement submitted	no
Type of tenancy	Monthly
Date of beginning	July 1, 2020
Date of ending	March 16, 2021
Monthly rent payable on 1 st	\$1,100.00
Security deposit	\$550.00
Outstanding rent	3 months x \$1,100.00 monthly
Forwarding Address Provided	no
Date of Application by Landlord	March 5, 2021

Condition inspection report – moving in	no
Condition inspection report – moving out	no

The landlord testified that no condition inspection was conducted on moving in. No inspection was conducted on moving out as the landlord hired a bailiff to enforce an Order of Possession.

The landlord testified that the house was “brand new” when the tenant moved in. The landlord stated they replaced a shower door damaged by the tenant for the cost of \$500.00. The landlord testified he had a receipt for the amount claimed dated April 3, 2021 but inadvertently did not upload the document.

The landlord’s claim is as follows:

ITEM	AMOUNT
Rent outstanding	\$3,300.00
Damages	\$500.00
Filing fee reimbursement	\$100.00
(Security deposit)	(\$550.00)
TOTAL CLAIM - DAMAGES	\$3,250.00

Analysis

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide

evidence that can verify the actual monetary amount of the loss or damage.

4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

The above-noted criteria are based on sections 7 and 67 of the Act. Section 7(1) of the Act provided that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results. 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.

These sections state as following:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

. . .

67. Without limiting the general authority in section 62 (3) [. . .] if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

The landlord must meet the burden of proof with respect to each claim.

I have considered all the evidence submitted by the landlord including the reference to the previous Decision. Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the tenant vacated leaving three months rent owing. I accept the landlord's testimony the amount of \$3,300.00 is owing for outstanding rent.

I accept the landlord's testimony that the landlord took all reasonable steps to mitigate expenses including retaining a bailiff shortly after getting the Order of Possession. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

I also find the landlord has met the burden of proof on a balance of probabilities that the door needed replacing when the tenant vacated, the tenant is responsible for the damage, the landlord incurred the amount claimed in repair , and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than 'reasonable wear and tear'. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

I therefore allow the landlord's claims summarized as follows:

ITEM	AMOUNT
Rent outstanding	\$3,300.00
Damages	\$500.00
Filing fee reimbursement	\$100.00
(Security deposit)	(\$550.00)
TOTAL Monetary Order	\$3,250.00

I grant a Monetary Order to the landlord in the amount of **\$3,250.00**.

Conclusion

I grant a Monetary Order to the landlord in the amount of **\$3,250.00**. This Order must be served on the tenant. If the tenant fails to comply with this Order the landlord may file the order in the Provincial Court (Small Claims) to 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 23, 2021

Residential Tenancy Branch