



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

The landlord filed an Application for Dispute Resolution (the “Application”) on April 1, 2021 seeking an order to recover the money for unpaid rent, and an order for compensation for damage to the rental unit. Additionally, the landlord seeks to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 31, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference all hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenants with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served by a method allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the landlord stated that they used Canada Post registered mail to send the Notice of Hearing to the tenant. The package included the evidence the landlord presents in this hearing. The landlord gave testimony that the address they provided on the registered mail package was that of the tenant’s current address as provided by the tenant. The landlord provided that they verified the package delivery because the tenant had signed for receipt of the package directly.

I accept the landlord’s undisputed evidence that they sent the package to the tenant via registered mail. Based on the submissions of the landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the tenant’s absence.

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 tenancy agreement on June 25, 2012 for the tenancy starting on July 1. The monthly rent amount was \$1,800, payable on the 1st of each month and this increased over the course of the tenancy to \$1,970. The tenant paid an initial security deposit of \$900.

The landlord explained that the tenant moved out from the unit after the landlord issued a notice to end the tenancy for unpaid rent. The landlord issued the notice, and the tenant did not dispute that notice within the legislated timeframe, then abandoning the rental unit within that initial 10-day period.

The landlord inspected the unit on the same day the tenant informed the landlord they had moved out. The record in the form of a single report shows this date to be October 2, 2020. The tenant did not attend this meeting. At that time the landlord took photos that they provided into evidence here. These show carpet stains throughout, a number of trips to remove junk from the rental unit, wall damage, dirty appliances. The report notes: “very dirty – planters and furniture abandoned” and “no keys were left”.

For damages to the rental unit, the landlord provided the amounts of \$4,591 for cleaning, hauling and repairs, and \$1,609.70 for carpet replacement. Additionally, they provided an invoice for \$169.97 for removal and replacement of the lock mechanism for the rental unit. This total amount claimed is \$6,370.67.

In addition to these pieces of their damage claim, the landlord listed the rent amounts for each consecutive month January through to September 2020. By June 2020, the tenant stopped paying rent altogether. This unpaid rent accumulated to \$11,820. This was the basis for the landlord issuing the notice to end the tenancy in September 2020.

In total, the landlord's claim for monetary compensation is \$18,190.67. Adding the \$100 Application filing fee for this hearing, the total amount of the landlord's claim is \$18,290.67.

The tenant did not attend the scheduled hearing and did not provide documentary evidence.

Analysis

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.

The *Act* s.26 requires a tenant to pay rent when it is due under the tenancy agreement whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

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 evidence shows a comprehensive record of work undertaken and associated 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 amounts claimed for damage and clean-up to the rental unit, I find the landlord has verified the amount they calculated and provided proof that the amount owing is in relation to this tenancy. As a result, I find the amount \$6,370.67 satisfies the landlord's claim for damage and clean-up costs. I so award this amount to the landlord via monetary order.

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 documented on

the ledger provided by the landlord in their evidence. As a result, I find the amount of \$11,820 satisfies the landlord's claim for rent owing; I so add this amount to the monetary order.

The landlord has properly made a claim against the security deposit and have the right to do so. The landlord is holding this amount of \$900. I order this amount deducted from the total of the rent and damage costs. Reducing the total by \$900 brings the total monetary order to \$17,290.67. 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 \$17,390.67 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: August 31, 2021

Residential Tenancy Branch