



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$3,849.85 for unpaid rent or utilities, for damages to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to offset any amount owing with the security deposit of the tenant, and to recover the cost of the filing fee.

The landlord and an agent for the landlord, CW (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord and agent were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated June 8, 2021 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on June 9, 2021 to the forwarding address the tenant provided via email on May 12, 2021. The registered mail tracking number has been included on the style of cause for ease of reference. According to the online registered mail tracking website, the registered mail package was eventually returned to sender and marked as "unclaimed" as of July 8, 2021. Section 90 of the Act states that documents served by registered mail are deemed served 5 days after they are mailed. Therefore, I find the tenant was deemed served as of June 14, 2021. Given the above, I find this application to be unopposed by the tenant as I find the tenant was deemed served and did not attend the hearing.

Preliminary and Procedural Matters

The landlord and agent were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The landlord and agent were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord and agent were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither the landlord nor the agent had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord and agent confirmed their email address at the outset of the hearing and the email address for the respondent. They were advised that the decision and any applicable orders would be emailed to them. The decision will also be emailed to the respondent.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on December 26, 2018 and reverted to a month-to-month tenancy as of December 31, 2019. Monthly rent of \$2,000.00 was due on first day of each month. The tenancy ended on May 2, 2021, when the landlord stated that the tenant vacated the rental unit without any notice.

The landlord's monetary claim of \$3,849.85 includes the tenant's \$1,000.00 security deposit being offset in the total and is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Replace lock and strata fines related to tenant	\$837.69
2. Repair and cleaning	\$1,912.16
3. Unpaid rent for May 2021	\$2,000.00

4. Filing fee	\$100.00
SUBTOTAL	\$4,849.85
<i>(Less \$1,000.00 for security deposit of tenant)</i>	<i>-(\$1,000.00)</i>
TOTAL	\$3,849.85

Regarding item 1, the landlord has applied for \$837.69. The landlord testified that the due to the tenant failing to return the mail key and a key fob, the landlord was forced to pay \$137.69 to a locksmith for rekeying costs. The landlord submitted an invoice, which matches the amount claimed. In addition, the landlord testified that the tenant incurred a total of \$700.00 in strata fines and presented a letter from the strata council which supports that due to the actions of the tenant, a total of \$700.00 in fines were issued. The landlord is seeking reimbursement of those costs as the landlord testified that the tenant signed a Form K and was aware of all the strata rules of the building.

Regarding item 2, the landlord has claimed \$1,912.16 for repairs and cleaning costs and provided several invoices, which include \$1,046.64 for repairs for damage to the rental unit after the tenant vacated the rental unit. In addition, the landlord stated that \$565.62 related to the cost to replace custom blinds that could not just be replaced with a normal blind as the custom blind was removed from the rental unit, which was supported by colour photos submitted in evidence. Some of the other work listed on the invoice were as follows:

DESCRIPTION
Resealing moldy gap for bathroom sink & bathtub
Moving out detail cleaning
Philips 40w G16 light bulb (+12% tax)
Handling & changing light bulb
Drainage cleaning for bathroom sink & bathtub
Furniture & garbage disposal fee
Installing vertical blinds
Repairing the broken vanity in guest bathroom
Repainting the dirty door casing in dining room
Cleaning the cat hair from vertical
Removing the sticker from speaker, wall, window, switch & fridge

The landlord stated that the remaining \$300.00 was paid to a contractor to reattach a baseboard heater to the wall which was pulled off by the tenant, and some other work not listed above that was also necessary.

Regarding item 3, the landlord testified that the tenant vacated without any written prior notice on May 2, 2021 contrary to the Act and therefore owes the landlord unpaid rent of \$2,000.00, which was due May 1, 2021.

Regarding the filing fee, I will address the filing fee later in this decision.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord and agent provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$4,849.85** as claimed, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100.00 as the landlord's application is successful. I have considered the undisputed testimony of the landlord and agent and that the application was unopposed by the tenant.

I find the tenant breached section 26 of the Act by failing to pay rent for May 2021 as required by the tenancy agreement and as claimed by the landlord. I also find the tenant breached section 37(2)(a) and 37(2)(b) of the Act which applies and states:

Leaving the rental unit at the end of a tenancy

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged**
except for reasonable wear and tear,
- (b) give the landlord all the keys or other means of access**
that are in the possession or control of the tenant and

(c) that allow access to and within the residential property.
[Emphasis added]

I have reached this finding by reviewing the photo evidence, the invoices for repairs to the damage which I find to exceed normal wear and tear and I accept the testimony of the agent and the landlord that the rental unit was left dirty, needed the cleaning being claimed and that the costs being claimed are reasonable.

As the landlord continues to hold the tenant's security deposit of \$1,000.00 which has accrued no interest to date under the Act, I authorize the landlord to retain the tenant's full \$1,000.00 security deposit towards the amount owing by the tenant pursuant to section 62(3) of the Act. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord of **\$3,849.85**.

I caution the tenant to comply with sections 26 and 37(2) of the Act in the future.

Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit and the landlord is granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$3,849.50. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant. The tenant has been cautioned as noted above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 24, 2021

Residential Tenancy Branch