



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the “Act”), for a monetary order for monetary loss or other money owed and to recover the cost of the filing fee.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on May 19, 2021 and successfully delivered to the tenant on May 20, 2021. A Canada post tracking number was provided as evidence of service and the tracking history shows it was delivered on May 20, 2021 to the tenant. I find that the tenant has been duly served in accordance with the Act.

The landlord’s agent stated that they also sent another copy of the above package by email to the tenant on May 19, 2021.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Are the landlords entitled to a monetary order for monetary loss or other money owed?

Background and Evidence

The tenancy began on February 1, 2016. Current rent in the amount of \$1,352.00 was payable on the first of each month. The tenant paid a security deposit of \$650.00. The tenancy is currently ongoing.

The landlord claims as follows:

<i>Document Number</i>	<i>Receipt / Estimate From</i>	<i>For</i>	<i>Amount</i>
#1	Strata Plan EPS 1977 - Chargeback	Elevator Damage	\$ 1018.90
#2	Strata Plan EPS 1977 - Chargeback	Lobby Damage	\$ 1029.00
#3	Strata Plan EPS 1977 -By Law Fine	Damage & Spills	\$ 200.00
#4	Strata Plan EPS 1977 - Chargeback	Elevator	\$ 689.25
#5	Strata Plan EPS 1977 - By Law Fine	Noise	\$ 100.00
#6	Strata Plan EPS 1977 - By Law Fine	Vandalism	\$ 200.00
#7	Strata Plan EPS 1977 - By Law Fine	Lock Alteration	\$ 50.00
#8	Strata Plan EPS 1977- By Law Fine	No Access for Inspection	\$ 100.00
#9	Strata Plan EPS 1977 - By Law Fine	Noise	\$ 100.00
#10	Strata Plan EPS 1977- By Law Fine	Noise	\$ 100.00
Total monetary order claim			\$ 3587.15

[Reproduced as written.]

The landlord's agent testified that term 37 of the tenancy agreement the tenant acknowledged that they agree to abide by the strata rules. Filed in evidence is a copy of the tenancy agreement.

Term 37 of the tenancy agreements reads as follows.

37. FORM K, NOTICE OF TENANT'S RESPONSIBILITIES

Where the rental unit is a strata lot, the tenant agrees to complete the Form K, Notice of Tenant's Responsibilities, prior to possession and will at all times during this tenancy comply with the provisions of the *Strata Property Act* as it affects him as a tenant and occupier of the strata lot. The tenant agrees to abide by the provisions of the bylaws and the rules and regulations of the Strata Corporation as adopted from time to time.

[Reproduced as written.]

The landlord's agent testified that #1, #2 and #4 in the monetary worksheet (the "MWS") are all chargebacks from the tenant causing damage on July 9, 2016 to the elevator and then causing damage to the lobby door because they were upset. The agent stated that they disputed the chargebacks on behalf of the tenant and a strata hearing was held and the tenant was found liable for the damage. Filed in evidence are copies of the chargeback documents and receipts.

The landlord's agent testified that #3, in the MWS, was a strata fine because the tenant spilled something in the common area. Filed in evidence are copies of the strata fines

The landlord's agent testified that #5, #9 and #10, in the MWS were strata fines for noise. Filed in evidence are copies of the strata fines.

The landlord's agent testified that #6, in the MWS was a strata fine because the tenant had vandalized the sign in the elevator by writing all over it. The agent stated that the tenant originally disputed the allegation; however, the strata provided a picture of the tenant causing the damage. Filed in evidence is a copy of the strata fine and a photograph of the tenant writing on the elevator sign.

The landlord's agent testified that #7 and #8, in the MWS were strata fines because the tenant had changed the lock, without the permission of strata or the landlord and the strata was unable to access for inspection. Filed in evidence is a copy of the bylaw fines and a photograph.

The landlord's agent stated that the tenant has said they would pay the fines; however, they have made no effort to do so. The landlord seeks to recover the cost of the chargebacks and strata fines in the total amount of \$3,587.15.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, the tenancy agreement has a term that the tenant will abide by the provisions of the bylaws and the rules and regulation of the strata corporation as adopted from time to time.

Over the course of the tenancy the tenant has caused damage to the elevator on two occasions, caused damage to a door and the damage was charged back to the owner. This damage was caused by the actions or neglect of the tenant. The tenant has not repaid the owner for the cost of the chargebacks. I find the tenant has breached term 37 of their tenancy agreement and this caused losses to the landlords. I find the landlords are entitled to recover the cost for chargebacks as set out in item #1, #2 and #4, in the MWS in the total amount of **\$2,737.15**.

I further find the tenant is responsible for the cost of the strata fines that occurred under their tenancy agreement for noise, altering the locks and no access for inspection as they were required to comply with all bylaws and rules and regulation. I find the tenant breached term 37 of their tenancy agreement and this caused losses to the landlords. I find the landlords are entitled to recover the cost of strata fines as set out in item #3, #5, #6, #7, #8 and #9, in the MWS in the total amount of **\$841.00**.

I find that the landlords have established a total monetary claim of **\$3,687.15** comprised of the above described amounts and the \$100.00 fee paid for this application. I grant the landlord a formal order pursuant to section 67 of the Act.

As the tenancy is ongoing, I suggest to the tenant to make a reasonable repayment plan with the landlord because this order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords are granted a monetary order in the above noted amount.

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: November 02, 2021

Residential Tenancy Branch