



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL, MNETC

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the Act). The landlord applied for:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed that the landlord served the tenants with the notice of hearing package via Canada Post Registered Mail on September 9, 2021. Both parties confirmed the landlord served the tenants with the documentary evidence package on January 6, 2022. No evidence was submitted by the tenants in response to the landlord's application.

Both parties confirmed that the tenants served the landlord with the notice of hearing package via Canada Post Registered Mail on September 17, 2021. Both parties confirmed the tenants served the landlord with the documentary evidence package on December 20, 2021. Both parties confirmed the landlord served the tenants with approximately 40-50 pages of documentary evidence in response to the tenants' application, however, no record of this evidence submission was on file. A review of the Residential Tenancy Branch Office where the landlord stated that it was submitted was taken. No record of this evidence submission was found.

Extensive discussions took place regarding both the landlord's and the tenants application(s) for dispute. The tenants stated that an amendment was filed on September 19, 2021 increasing the tenants monetary claim to \$52,800.00. The landlord confirmed receipt of the amendment, but a review of both the tenants and the landlord's application fails to disclose an amendment being found. A copy of an amendment by the tenants was found submitted as evidence but was dated December 14, 2021.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to the landlord paying to the tenants, \$5,000.00, which both parties agreed constituted a final and binding resolution of all monetary issues under dispute in both of their applications for dispute resolution.

The landlord agreed to cancel his application for dispute.

The tenants agreed to cancel their application for dispute.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenants' favour in the amount of \$5,000.00. I deliver this Order to the tenants in support of the above agreement for use in the event that the landlord

does not abide by the terms of the above settlement. The tenant is provided with this Order in the above terms and the landlord must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: January 25, 2022

Residential Tenancy Branch