



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, MNRL-S, FFL

Introduction

The landlord originally sought an order of possession based on an undisputed notice to end tenancy pursuant to section 55(2)(b) of the *Residential Tenancy Act* ("Act"). In addition, they sought a payment order for unpaid rent pursuant to section 55(4)(b) of the Act, and recovery of the application filing fee under section 72 of the Act.

It should be noted that the tenant vacated the rental unit on or about December 20, 2021 and as such the landlord no longer requires an order of possession.

Preliminary Issue: Service

The landlord attended the hearing, but the tenant did not. In such cases where a respondent does not attend, I must be satisfied that the respondent was properly served with the Notice of Dispute Resolution Proceeding.

The landlord testified, under oath, that on September 27, 2021 he served the Notice of Dispute Resolution Proceeding by Canada Post registered mail, which is a permitted method of service under section 89 of the Act. Given this undisputed evidence it is my finding that the tenant was appropriately served with the Notice of Dispute Resolution Proceeding and documentary evidence necessary for him to participate fully in these proceedings.

Issues

1. Is the landlord entitled to a payment order?
2. Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The tenancy began on April 15, 2021 and monthly rent, which is due on the first day of the month, is \$1,300.00. The tenant paid a \$650.00 security deposit and a \$650.00 pet damage deposit. A copy of a written tenancy agreement is in evidence.

The landlord gave evidence that a One Month Notice to End Tenancy for Cause was served on the tenant on August 25, 2021 by being posted on the door of the rental unit. Copies of all pages of the Notice were submitted into evidence.

The landlord gave evidence that the tenant owed rent arrears, along with some minor damage to the rental unit, in the amount of \$5,600.00.

Analysis

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Further, a party claiming compensation for damage or loss that results from the other's non-compliance must do whatever is reasonable to minimize the damage or loss.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving that they are entitled to \$5,600.00 in compensation for unpaid rent and minor damage caused to the rental unit.

The landlord is also awarded \$100.00 in compensation to pay for the cost of the application filing fee, pursuant to section 72 of the Act.

Given that the tenancy has ended, the landlord is hereby authorized, pursuant to section 38(4)(b) of the Act, to retain the tenant's security and pet damage deposits totalling \$1,300.00. The balance of the amount awarded, \$4,400.00, is granted by way of a monetary order that is issued in conjunction with this decision. It is the landlord's responsibility to serve a copy of the monetary order on the tenant.

Conclusion

The landlord's application is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: January 24, 2022

Residential Tenancy Branch