



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, damages and loss pursuant to section 67;
- authorization to retain all or a portion of the tenants' security and pet damage deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified they were not making a recording of the hearing.

The landlord testified that they served each of the tenants with the notice of hearing and evidence by registered mail sent on July 28, 2021 to the forwarding address provided by the tenants. The landlord submitted two valid Canada Post tracking receipts as evidence of service. Based on the evidence I find that the tenants are each deemed served with the landlord's materials on August 2, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing the landlord requested to amend their application. They submit that since the application was filed additional receipts have come due and the amount of their monetary claim has changed. Pursuant to section 64(3)(c) of the *Act*

and Rule 4.2 of the Rules of Procedure as additional receipts and invoices coming due over time is reasonably foreseeable, I amend the landlord's application and increase the monetary claim from \$1,513.00 to \$2,378.83.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the deposits for this tenancy?

Is the landlord entitled to recover their filing fee from the tenants?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. The monthly rent for this periodic tenancy was \$888.00 payable on the first of each month. A security deposit of \$425.00 and pet damage deposit of \$200.00 were collected at the start of the tenancy and are still held by the landlord.

The landlord issued a 1 Month Notice to End Tenancy for Cause dated June 8, 2021. The tenants abandoned the rental unit without notice or payment of rent on July 1, 2021. The landlord submits that there is a rental arrear of \$888.00 for this tenancy as at the date of the hearing.

The tenants did not attend a move-out inspection despite the landlord making multiple attempts to contact and schedule a time for an inspection. The tenants provided a forwarding address in writing by a letter dated July 1, 2021 which was received by the landlord on July 13, 2021.

The landlord submits that the rental unit required considerable cleaning, maintenance and work due to its post-tenancy condition. The landlord submitted a condition inspection report completed in the absence of the tenants and various receipts and invoices for work performed. The landlord submits that the tenants left garbage strewn about the suite, marred the walls and floors such that they needed to be replaced or repainted and they incurred significant costs to restore the unit to its pre-tenancy condition. The landlord submits that the total cost of the work done is \$1,490.73.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I find that the tenants were obligated to pay rent in the amount of \$888.00 pursuant to the tenancy agreement on the first of each month. I accept the evidence of the landlord that the tenants failed to pay rent as required on July 1, 2021 and there is a rental arrear of \$888.00. I issue a monetary award in that amount accordingly.

I accept the evidence of the landlord that the rental unit was left in a state of profound disarray due to the tenants and the landlord incurred significant costs to restore to the pre-tenancy condition. I am satisfied with the evidence of the landlord including the condition inspection report completed in the absence of the tenants and their cogent, consistent testimony that the suite was damaged and in a state of disarray more than would reasonably be expected from a tenancy of this length. I find the various invoices and receipts submitted to show that the nature and scope of the work performed is commensurate to the state of the rental unit and for the purpose of restoring the rental unit to its pre-tenancy condition rather than renovation or upgrades. I find the amounts charged to be reasonable, and the landlord took measures to mitigate their losses. Accordingly, I issue a monetary award in the landlord's favour in the amount of \$1,490.73.

As the landlord was successful in their application, they are also entitled to recover their filing fee from the tenants.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security and pet damage deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,853.73, allowing the recovery of the unpaid rent, cost of cleaning and repairs, and recovery of the filing fee and to retain the security and pet damage deposit for this tenancy. The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 31, 2022

Residential Tenancy Branch