



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL

Introduction

This hearing was convened in response to an application by the landlords pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- a monetary award for loss under the tenancy agreement pursuant to section 67 of the *Act*;
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlords attended the hearing. The landlords were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The landlords explained they mailed two separate applications for dispute to the tenants by way of Canada Post Registered Mail on July 28, 2021. Tracking numbers and receipts were provided by the landlords to the hearing and in their online submission packages. Pursuant to sections 88, 89 and 90 of the *Act*, I deem that the tenants were served with the applications for dispute and evidentiary packages on August 2, 2021, five days after this posting.

The landlords affirmed they were not recording the hearing pursuant to Rule of Procedure 6.11.

Issue(s) to be Decided

Are the landlords entitled to a monetary award? Can the landlords recover the filing fee?

Background and Evidence

The landlords explained this tenancy began on November 4, 2017 and ended on December 20, 2019 following this issuance of a 2 Day Order of Possession granted by an arbitrator with the Residential Tenancy Branch. Rent for the unit was \$1,095.00 per month and security and pet deposits of \$525.00 each were returned to the tenants.

The landlords are seeking a monetary award of \$7,798.02. They explained this figure represented the costs associated with hiring a bailiff to remove the tenants in January 2020 after the tenants refused to vacate the premises following service of the Landlord's Order of Possession. The landlords are also seeking a return of their filing fee.

As part of their evidentiary package, the landlords provided an invoice from Canadian Western Civil Enforcement Ltd., dated January 28, 2020 for \$7,698.02 along with a proof of payment.

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. As noted in Policy Guideline #16, 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. In this case, the onus is on the landlords to prove their entitlement to a claim for a monetary award.

Following a review of the evidence submitted by the landlords and after having considered their undisputed testimony, I find that the landlords have sufficiently demonstrated their entitlement to their monetary award.

The landlords supplied an invoice which was consistent with the figure cited in their application, further, the landlords were able to sufficiently explain the necessity to hire a bailiff following the tenants' refusal to vacate the premises after being served with a 2-day order of possession.

I grant the landlords the entirety of their monetary award. The landlords may recover the filing fee pursuant to section 72 of the *Act*.

Conclusion

I grant the landlords a Monetary Order of \$7,798.02 as follows:

ITEM	AMOUNT
Invoice for bailiff	7,698.00
Recovery of filing fee	100.00
TOTAL =	\$7,798.00

The landlords are provided with these Orders in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with these Orders, these Orders 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