



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDL-S, MNRL, FFL

Introduction

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

- and a monetary order for unpaid rent, and compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:41 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 pm. The landlord's agent, TM ("landlord"), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord was clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing. The landlord confirmed that they understood.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ('Application') and evidence on July 15, 2021 by way of registered mail to the forwarding address provided by the tenant. The landlord provided the tracking information and receipt in their evidentiary materials which show that the package was sent on July 15, 2021, and delivered on July 17, 2021. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant deemed served

with the landlord's application and evidence package on July 20, 2021, 5 days after mailing. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on April 30, 2019, and ended on March 30, 2021 after the tenant was served with a 1 Month Notice to End Tenancy for Cause on February 25, 2021. Monthly rent was set at \$1,550.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$775.00, which the landlord still holds.

The landlord is seeking a monetary order for the following items:

Item	Amount
Repairs & Painting	\$3,449.12
Cleaning & bulbs	578.00
Repair broken stove element	145.25
Outstanding Rent March 2021	1,150.00
Filing Fee	100.00
Total Monetary Order Requested	\$ 5,422.37

The landlord's agent testified that the tenant had only paid \$400.00 towards the March 2021 rent before moving out. The landlord is requesting a monetary order for the remaining amount.

The landlord's agent testified that the tenant failed to leave the home in reasonably clean and undamaged condition. The landlord submitted a copy of the move-in and move-out inspection reports, photos, as well as invoices to support their losses. The landlord testified that the stove and refrigerator were approximately 10 years old.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Based on the undisputed testimony and evidence before me, I find that the tenant failed to pay the outstanding rent for March 2021, and still owes \$1,150.00 in outstanding rent. Accordingly, I allow this portion of the landlord's monetary claim.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlords had provided sufficient evidence to show that the tenant did not take reasonable care and attention when vacating the home. I find that the landlord provided detailed testimony and evidence to support the losses claimed. I have noted the age of the refrigerator and oven, which the landlords estimated to be about 10 years old. Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. As per this policy, the useful life of the stove and refrigerator is 15 years. Therefore at the end of the tenancy the appliances still had approximately 5 years of useful life left. I am satisfied that the landlords had made an effort to mitigate the tenant's exposure to the landlords' monetary losses, as is required by section 7(2) of the *Act*. I find that the landlords had avoided the replacement of the stove by replacing the broken element. I also find that the landlords had established that the more cost effective option was to replace the refrigerator than repair it. Accordingly, I find the landlord is entitled to the compensation requested for these losses.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Conclusion

I issue a Monetary Order in the amount of \$4,647.37 in the landlords' favour under the following terms which allows a monetary award for damage and losses caused by the tenant.

Item	Amount
Repairs & Painting	\$3,449.12
Cleaning & bulbs	578.00
Repair broken stove element	145.25
Outstanding Rent March 2021	1,150.00
Filing Fee	100.00
Less security deposit	-775.00
Total Monetary Order	\$4,647.37

The landlords are provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible. Should the tenant 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: February 7, 2022

Residential Tenancy Branch