



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenants. The landlord submitted documentary evidence that KB was served notice of this application and this hearing by registered mail on August 11, 2021 and JR was served notice of this hearing and application by registered mail on August 7, 2021. Canada Post registered mail slips were submitted in the landlord's evidence. Based on the submissions of the landlord and in accordance with sections 89 and 90 of the *Act*. I find that JR was deemed served on August 12, 2021 and KB was deemed served on August 16, 2021, five days after each respective package was mailed. Therefore, I continued in the absence of the tenants.

Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

Background, Evidence

JS gave the following testimony on behalf of the landlords. The one-year fixed term tenancy began February 1, 2021 and ended early on May 3, 2021. The tenants were obligated to pay \$2150.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1075.00 security deposit which the landlord still holds. The landlord testified that the tenants left the unit dirty and damaged at move out. The landlord testified that the tenants moved out without notice and didn't pay the rent for April or May 2021. The landlord testified that he did all the cleaning and repairs himself to mitigate the costs. The landlord testified that despite his best efforts he couldn't rent the suite again until June 15, 2021.

The landlord outlined the following issues with the suite at move out as follows as noted in their application:

*"Suite was left in a very bad state: * Not cleaned - was very filthy, cigarettes, dried beer, empty cans * Stolen tv wall mount * Multiple holes in walls, not repaired * Broken fridge handle, broken towel bar, broken window handle * Furniture and other personal items left behind * Permanent cigarette burn stains on patio, despite no smoking policy * Permanent damage to door trim - trim was ripped off and then poorly screwed back in * 20 hours of cleaning and repairs were required"*

The landlord is applying for the following:

1.	Unpaid Rent April and May 2021	\$4300.00
2.	Loss of Rent June 1-15, 2021	1075.00
3.	Strata fee, cleaning and damages	429.14
4.	Labour 20 hours x \$20.00 per hour	400.00
5.	Trim damage (estimate)	200.00
6.	Patio burn marks (estimate)	300.00
7.	Filing fee	100.00
8.		
9.		
10.		
	Total	\$6804.14

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlords claim and my findings as follows.

Unpaid Rent and loss of revenue

The landlord provided documentation and undisputed testimony to satisfy me of this claim. The landlord is entitled to the unpaid rent for April and May 2021 and the loss of revenue for June 1-15, 2021 for a total of \$5375.00.

Strata fee, cleaning and repairs

The landlord provided extensive documentation, undisputed testimony, receipts and photos to support this portion of their application. Based on the above, I find that the landlord is entitled to \$429.14.

Labour

Based on the evidence submitted for the above claim, I find that the scope of work and the amount sought by the landlord is reasonable and appropriate, accordingly; I find that the landlord is entitled to \$400.00.

Trim damage and patio burn

The landlord was seeking \$500.00 as compensation for this damage. However, the landlord failed to provide sufficient evidence of the amount of actual loss, accordingly; I dismiss this portion of the claim.

The landlord is entitled to the recovery of the \$100.00 filing fee for this application.

Conclusion

The landlord has established a claim for \$6304.14. I order that the landlord retain the \$1075.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$5229.14. This order may be filed in the Small Claims 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 01, 2022

Residential Tenancy Branch