



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prompton Real Estate Services
Inc and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

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

- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this teleconference hearing, which lasted approximately 15 minutes. The line remained open throughout the hearing. The corporate landlord was represented by its agents who were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord's agent testified that they served the tenant with the notice of hearing and evidence by registered mail sent to the forwarding address provided by the tenant. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on October 14, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?
Is the landlord entitled to retain the deposit for this tenancy?
Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The rent for this tenancy was \$1,385.00 payable on the first of each month. A security deposit of \$650.00 was collected at the start of the tenancy and is still held by the landlord. Pursuant to the signed tenancy agreement the tenant is also responsible for paying NSF charges for any dishonoured payments.

The parties prepared a move-in condition inspection report at the start of the tenancy noting no issues. The tenancy ended on May 31, 2021. The tenant failed to attend the move-out inspection as scheduled and did not sign the move-out inspection report.

The landlord submits that there was a rental arrear in the amount of \$1,767.00 including NSF fees at the end of the tenancy. The landlord provided a ledger showing the amounts owing and payable.

The landlord submits that the rental unit was in a state of disarray requiring cleaning and garbage disposal at the end of the tenancy. The landlord submits that the total cost of cleaning, disposal and replacement of items was \$1,330.06. The landlord submitted some receipts and invoices in support of their monetary claim.

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 accept the undisputed evidence of the landlord that there was a rental arrear at the end of this tenancy caused by the tenant failing to pay rent and NSF fees as required under the tenancy agreement. I accept the evidence of the landlord that the total amount of the arrear, as at the date of the hearing, is \$1,767.00 and issue a monetary award in that amount accordingly.

I am satisfied with the landlord's evidence including the undisputed testimony of their agents, the documentary evidence including the condition inspection report completed in accordance with the Act and regulations and the various receipts and invoices that the rental unit required cleaning and work due to the tenancy and that the amount of the losses is \$1,330.06. Accordingly, I issue a monetary award in that amount in the landlord's favour.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security 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 \$2,547.06, allowing for the recovery of arrears, damages and loss, filing fees and to retain the security deposit for this tenancy. The tenant must be served with 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: April 25, 2022

Residential Tenancy Branch