



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, MNDCL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Landlord applied on December 14, 2021 for:

- an order of possession, the Tenants having given written notice to end the tenancy;
- compensation for monetary loss or other money owed, noting that the Landlord holds the security deposit; and
- the filing fee.

The hearing teleconference was attended by only the Landlord's agent, GG, who was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; she was also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

GG testified that the Notice of Dispute Resolution Proceeding (NDRP) and evidence was served on the Tenants by sending it registered mail on January 5, 2022 to the rental address, and provided a tracking number, as noted on the cover page of this decision. Based on GG's affirmed undisputed testimony and the evidence, and having checked the tracking number, I find the Tenants were served in accordance with section 89 of the Act, and deem the NDRP and evidence received by the Tenants on January 10, 2022, pursuant to section 90 of the Act.

Preliminary Matters

GG testified the Landlord was no longer seeking an order of possession, as the Tenants vacated the rental unit on March 10, 2022. Therefore, I dismiss the Landlord's application for an order of possession.

As most of the items mentioned under the Landlord's monetary claim appear to be regarding a different tenancy agreement—the expenses of an incoming tenant not named as a party in the application—I informed GG I would not be hearing on those items, only on the Landlord's claim for the non-refundable move out fee the Landlord paid on behalf of the subject Tenants.

Issues to be Decided

- 1) Is the Landlord entitled to the move out fee they paid on behalf of the Tenants?
- 2) Is the Landlord entitled to the filing fee?

Background and Evidence

GG provided the following particulars regarding the tenancy. It began March 10, 2021; rent was \$2,400.00 a month, due on the first of the month; and the Tenants paid a security deposit of \$1,200.00, which the Landlord still holds.

GG testified that the Tenants served the Landlord with a notice to end tenancy, a copy of which was submitted as evidence. Dated October 30, 2021, the notice is in writing, is signed, gives the address of the rental unit, and states an effective date: December 15, 2021.

GG testified that as the building requires the payment of a fee for moves in and out, the Landlord paid a non-refundable move out fee of \$100.00 on behalf of the Tenants. A copy of the receipt was submitted as evidence.

GG testified that the Tenants did not move out on December 15, 2021 as agreed, and did not pay the Landlord the \$100.00 for the non-refundable move out fee. A copy of the Tenants' email stating that they will not be moving out on December 15, 2021 is submitted as evidence.

Analysis

As the Tenants' notice to end tenancy is in writing, is signed and dated, gives the address of the rental unit, and states the effective date of the notice, I find that it meets section 52 of the Act, and is therefore effective.

GG testified that the Landlord paid the required non-refundable move-out fee of \$100.00 on behalf of the Tenants, and submitted a receipt as proof.

Section 7(1)(f) of the Residential Tenancy Regulation states that a landlord may charge a tenant for a non-refundable move-in or move-out fee charged by a strata corporation to the landlord.

Section 7(1) of the Act provides that if a tenant does not comply with the Act, Regulation, or their tenancy agreement, the tenant must compensate the landlord for damage or loss that results.

GG testified that the Tenants have not paid the Landlords back for the move-out fee.

Section 67 of the Act allows an arbitrator to order one party to pay another compensation if damage or loss results from a party not complying with the Act, Regulation, or a tenancy agreement.

Based on GG's undisputed affirmed testimony and the documentary evidence, I find the Landlord is entitled to the \$100.00 she paid on behalf of the Tenants for the move out fee.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord is partially successful in her application, she is entitled to recover the filing fee. I order the Tenants to pay the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

I find the Landlord is entitled to a total monetary award of \$200.00. In accordance with section 72 of the Act, I allow the Landlord to retain \$200.00 of the Tenant's security deposit in satisfaction of this monetary award.

Conclusion

The Landlord is granted a monetary award of \$200.00, so may retain \$200.00 of the Tenants' security deposit in satisfaction.

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 7, 2022

Residential Tenancy Branch