



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL, 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.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. The tenant acknowledged the evidence submitted; the tenant did not submit any documentation for this hearing. Both parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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

MY gave the following testimony on behalf of the landlords. The tenancy began on April 15, 2018 and ended on March 10, 2021. The tenants were obligated to pay \$1350.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$650.00 security deposit which the landlord still holds. MY testified that the tenants abandoned the unit and ended the tenancy without notice. MY testified that the tenants had fallen behind in their rent at the outset of COVID – 19 and never recovered. The landlord is seeking all unpaid rent, the recovery of the filing fee and the cost to replace fobs that weren't returned.

The landlord is applying for the following:

1.	Unpaid Rent	\$5980.00
2.	Fob Replacement	175.00
3.	Filing Fee	100.00
4.		
5.		
6.		
7.		
8.		
9.		
10.		
	Total	\$6255.00

The tenant gave the following testimony. The tenant testified that he had moved out in March 2020 without giving proper written notice and that he couldn't confirm or deny the amount submitted by the landlords.

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.

The landlord provided extensive documentation and undisputed testimony, to support their application. I find that the landlord is entitled to a monetary order in the amount as claimed for \$6255.00.

Conclusion

The landlord has established a claim for \$6255.00. I order that the landlord retain the \$650.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$5605.00. 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: May 16, 2022

Residential Tenancy Branch