



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTURBAN PROPERTIES
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC, OPR, MNDL-S, MNRL-S, FFL**

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for damages and loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served each of the tenants with the notice of hearing and evidence by registered mail sent on March 25, 2022. The landlord provided valid Canada Post tracking numbers as evidence of service. Based on the evidence I find that the tenants are deemed served with the landlord's materials on March 30, 2022, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing the landlord said the tenants have vacated the rental unit and an Order of Possession is no longer sought. They withdrew that portion of their application.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as sought?

Background and Evidence

The landlord gave undisputed evidence on the following facts. This tenancy began on May 1, 2021. Monthly rent is \$1,650.00 payable on the first of each month. A security deposit of \$825.00 was collected at the start of the tenancy and is still held by the landlord.

The tenants failed to pay rent as required under the signed tenancy agreement on March 1, 2022. There is a rental arrear of \$1,650.00 as at the date of the hearing. The tenants subsequently abandoned the rental unit and vacated without participating in a move-out inspection.

The landlord inspected the rental unit in the absence of the tenants and found that it required some cleaning, repairs and work to restore to its pre-tenancy condition. The landlord submits into evidence receipts for the work done totalling \$1,653.75.

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 find the tenants were obligated to pay rent as required under the signed tenancy agreement of \$1,650.00 on March 1, 2022. I accept the undisputed evidence that they failed to pay the rent and there is an arrear of \$1,650.00 as at July 8, 2022, the date of the hearing.

I accept the evidence of the landlord including their undisputed testimony and third-party receipts and invoices showing that they incurred losses of \$1,653.75 to restore the rental unit to its pre-tenancy condition due to the tenancy.

Accordingly, I find the landlord has established, on a balance of probabilities, the basis for a monetary claim of \$3,303.75 and I issue an award in that amount.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' 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 \$2,578.75, allowing for the monetary award and recovery of filing fee and to retain the deposit for this tenancy. The tenants must be served with this Order as soon as possible. Should the tenants 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: July 8, 2022

Residential Tenancy Branch