



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, 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's agent. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by e-mail on June 1, 2022 pursuant to a sub service order granted to the landlord from the Branch. Based on the submissions of the landlord, I find the tenant was served in accordance with section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

Preliminary Issues

At the outset of the hearing, the agent advised that the tenant moved out on April 28, 2022 and that an order of possession is no longer needed, accordingly; I dismiss that portion of the landlords application. The agent advised that he had checked off the box to retain the deposit, but the deposit was used many months ago towards other paid costs to the landlord, therefore I dismiss the landlords claim to retain the deposit as there no longer is one. The landlord filed two applications and paid two filing fees,

however the applications are duplicitous and therefore the landlord is entitled to only the recovery of one fee paid. This was explained to the landlord, and he indicated that he understood.

Issue to be Decided

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

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

Background, Evidence

The landlord's agent undisputed testimony is as follows. The tenancy began on June 1, 2021 and ended on April 28, 2022. The tenant was obligated to pay \$1575.00 per month in rent. The agent testified that the tenant did not pay the rent for the last month of the tenancy and seeks \$1575.00 for unpaid April rent. The agent testified that the unit was left dirty and required the landlord to pay \$250.00 to have the suite cleaned. The agent testified that the landlord rented a U-Haul for the tenant to move his items, or he would not move out at a cost of \$209.74. The agent testified that the landlord seeks these costs along with the \$100.00 filing fee for a total request of \$2134.74.

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's agent provided undisputed testimony, documentation, and receipts to support the entirety of their claim. Based on the above and the lack of any disputing evidence from the tenant, I find that the landlord is entitled to the amount as claimed. The landlord is entitled to a monetary award of \$2134.74.

Conclusion

The landlord has established a claim for \$2134.74. I grant the landlord an order under section 67 for the balance due of \$2134.74. 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: August 23, 2022

Residential Tenancy Branch