



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord February 01, 2022 (the “Application”). The Landlord applied as follows:

- For compensation for monetary loss or other money owed
- For compensation for damage to the rental unit
- To recover unpaid rent
- To keep the security deposit
- For reimbursement for the filing fee

D.O. appeared at the hearing as an agent for the Landlord. Nobody appeared at the hearing for the Tenant. I explained the hearing process to D.O. I told D.O. they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). D.O. provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence.

D.O. testified that the hearing package and Landlord’s evidence were sent to the Tenant by email pursuant to a substituted service decision issued by the RTB February 24, 2022. The Landlord submitted emails showing service of the hearing package and Landlord’s evidence on February 09, 2022.

Based on the undisputed testimony of D.O., emails in evidence and substituted service decision, and pursuant to section 71(2) of the *Residential Tenancy Act* (the “Act”), I find the Tenant was sufficiently served with the hearing package and Landlord’s evidence. Pursuant to section 71(2) of the *Act*, and considering section 44 of the *Residential*

Tenancy Regulation (the “*Regulations*”), I find the Tenant received the hearing package and Landlord’s evidence February 12, 2022. I find the Landlord complied with rule 3.1 of the Rules in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. D.O. was given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to compensation for monetary loss or other money owed?
2. Is the Landlord entitled to compensation for damage to the rental unit?
3. Is the Landlord entitled to recover unpaid rent?
4. Is the Landlord entitled to keep the security deposit?
5. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord sought the following compensation:

Item	Description	Amount
1	Two fridge parts	\$201.60
2	Washer boot	\$187.20
3	Paint	\$6,800.00
4	Extensive maintenance	\$803.25
5	Cleaning	\$600.00
6	Junk removal	\$800.00
7	Two deadbolts	\$127.66
8	City utility bills	\$1,097.38
9	Unpaid rent	\$3,950.00
10	Filing fee	\$100.00
	TOTAL	\$14,667.09

A written tenancy agreement was submitted. The tenancy started April 01, 2019, and was for a fixed term. The tenancy then became a month-to-month tenancy. Rent was \$2,800.00 per month due on the first day of each month. The Tenant paid a \$1,400.00 security deposit.

D.O. testified as follows.

The tenancy ended December 31, 2021.

The Tenant did not provide a forwarding address to the Landlord.

The Landlord did not have an outstanding Monetary Order against the Tenant at the end of the tenancy. The Tenant did not agree to the Landlord keeping the security deposit.

The Condition Inspection Report (the "CIR") in evidence is accurate. In relation to the move-out inspection, the Tenant was given two opportunities, one on the RTB form, to do a move-out inspection; however, the Tenant did not appear at the inspection. D.O. completed the move-out inspection on their own, completed the CIR and signed the CIR.

The Tenant broke two fridge parts which had to be replaced which cost \$201.60.

The Tenant damaged the front rubber portion of the washer which had to be replaced which cost \$187.20.

The Tenant damaged the walls of the rental unit beyond reasonable wear and tear. There were holes everywhere which required patching and painting. The quote to repair the wall damage was \$6,800.00; however, the repair ended up costing more.

The Tenant damaged the rental unit such that general maintenance had to be done at the end of the tenancy to address the issues caused by the Tenant. The cost of the maintenance was \$803.25.

The Tenant did not leave the rental unit reasonably clean at the end of the tenancy and therefore the Landlord had to hire cleaners to clean the unit which cost \$600.00.

The Tenant left items in the garage of the rental unit at the end of the tenancy. The Landlord had to hire someone to come and remove the items which cost \$800.00.

The Tenant failed to return keys to the rental unit at the end of the tenancy and had installed a keypad lock on the door without permission. The locks had to be replaced which cost \$127.66.

The Tenant was responsible for paying for utilities pursuant to the tenancy agreement. The Tenant failed to pay \$1,097.38 for utilities used during the tenancy.

The Tenant failed to pay \$3,950.00 in rent and did not have authority under the *Act* to withhold this rent.

The Landlord submitted the following documentary evidence:

- Invoices and quotes for expenses
- Photos of the rental unit
- Tenancy Agreement
- CIR
- Tenant Ledger
- Email correspondence between the parties

Analysis

Security deposit

Pursuant to sections 24 and 36 of the *Act*, landlords and tenants can extinguish their rights in relation to a security deposit if they do not comply with the *Act* and *Regulations*.

There is no evidence before me that either party extinguished their rights in relation to the security deposit pursuant to section 24 of the *Act*.

I accept the undisputed testimony of D.O. that the Tenant was given two opportunities, one on the RTB form, to do a move-out inspection but did not appear at the inspection. I find the Tenant extinguished their right to return of the security deposit pursuant to section 36 of the *Act*. Given this, the Landlord can keep the security deposit.

Compensation

Section 7 of the *Act* states:

7 (1) If a...tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Damage and keys

Section 37 of the *Act* states:

(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I accept the undisputed testimony of D.O. and based on it, as well as the documentary evidence submitted, I find the following.

I find the Tenant broke two fridge parts, damaged the front rubber portion of the washer, damaged the walls of the rental unit, damaged the unit such that general maintenance had to be done, did not leave the unit reasonably clean, left items in the garage, failed to return keys to the unit and installed a keypad lock on the door without permission, all in breach of section 37 of the *Act*.

I find the Landlord had to repair and address the above noted damage and issues and that doing so cost \$9,519.71. I am satisfied this amount is reasonable given how the rental unit was left as shown in the photos. Further, the Tenant did not appear at the hearing to dispute the amounts sought. I award the Landlord \$9,519.71.

Utilities

I accept the undisputed testimony of D.O. and based on it, as well as the documentary evidence submitted, I find the Tenant failed to pay \$1,097.38 for utilities used during the tenancy. I award the Landlord the \$1,097.38 sought.

Rent

Section 26(1) of the *Act* states:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the undisputed testimony of D.O. and based on it, as well as the documentary evidence submitted, I find the Tenant failed to pay \$3,950.00 in rent during the tenancy. I find the Tenant did not have authority under the *Act* to withhold this rent. I award the Landlord the \$3,950.00 sought.

Filing fee

Given the Landlord has been successful in the Application, I award them \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*.

Summary

In summary, the Landlord is entitled to the following:

Item	Description	Amount
1	Two fridge parts	\$201.60
2	Washer boot	\$187.20
3	Paint	\$6,800.00
4	Extensive maintenance	\$803.25
5	Cleaning	\$600.00
6	Junk removal	\$800.00
7	Two deadbolts	\$127.66
8	City utility bills	\$1,097.38
9	Unpaid rent	\$3,950.00
10	Filing fee	\$100.00
	TOTAL	\$14,667.09

The Landlord is entitled to \$14,667.09. Pursuant to section 72(2) of the *Act*, the Landlord can keep the \$1,400.00 security deposit. The Landlord is issued a Monetary Order for the remaining \$13,267.09 pursuant to section 67 of the *Act*.

Conclusion

The Landlord is entitled to \$14,667.09. The Landlord can keep the security deposit. The Landlord is issued a Monetary Order for the remaining \$13,267.09. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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 *Act*.

Dated: September 28, 2022

Residential Tenancy Branch