



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution on March 10, 2022 seeking compensation for unpaid rent and other money owed. Additionally, they seek reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on November 22, 2022.

The Landlord attended the scheduled conference call hearing; the Tenant did not attend.

Preliminary Matter – Notice of Dispute Resolution Proceeding

The Landlord attended the hearing, and they were provided the opportunity to present oral testimony and make submissions during the hearing. The Tenant did not attend the telephone conference call hearing.

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution Proceeding (the “Notice”) for this hearing. This means the Landlord must provide proof that they served the Notice document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

The Landlord set out how they served the Notice to the Tenant via email, on March 29, 2022. This was an Residential Tenancy Branch-approved service method after the Landlord showed email was the only method available to them to contact the Tenant, via an established means by which the parties communicated during the tenancy. The

Landlord re-sent the document to the Tenant on March 30, and provided evidence to support their Application.

Based on this evidence from the Landlord, I accept they served the Notice in a manner complying with section 89(1)(e) of the *Act*. The hearing thus proceeded in the Tenant's absence.

Issues to be Decided

Is the Landlord entitled to compensation for unpaid rent, and/or other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord spoke to the basic terms of the tenancy agreement in the hearing. They provided a copy of the document in their evidence. The tenancy started on July 15, 2021, with the rent amount at \$1,400. The Tenant paid a security deposit of \$700 that the Landlord continues to hold. The rent did not increase over the length of the tenancy.

The Landlord ended this tenancy by serving a One-Month Notice to End Tenancy for Cause on February 2, 2022. The Tenant advised the Landlord approximately 10 days before the end of February that they would move out by the end of February. The Landlord provided an image of that message from the Tenant that says: "I will be fully moved out by the end of the month."

The Landlord submits this was not 30 days' notice as the *Act* requires in these circumstances. They seek compensation for the March 2022 rent that they lost because of the Tenant's insufficient notice, and not being able to rent out the unit following this in March. They request the full amount of March rent -- \$1,400 -- as compensation for this.

The Tenant did not provide a forwarding address to the Landlord. There was no record of the Landlord and Tenant meeting together at the end to inspect the condition of the rental unit.

The Landlord also submits the Tenant stole curtains from the rental unit at the end of the tenancy. They provided evidence on the form of text messages with the Tenant, showing their inquiry to the Tenant, undated, as follows:

- Landlord: "I am following up to see when you are going to drop by the two sets of curtains (blue set and white set) that were on up."
- Tenant: "Oh yes I haven't been able to find them in my packing yet. . ."

In a separate exchange:

- Landlord: "The damage deposit will be returned on the date of retrieval of the curtains."
- Tenant: "I got rid of your curtains when I was moving I have two panels of curtain to replace them."
- Landlord: ". . .those were specifically thermal curtains and bought specifically for the suite."

The Landlord claims compensation of the \$99 replacement curtain cost. Adding sales tax, this comes to \$112. In the hearing, the Landlord specified that they purchased curtains as replacement in mid-March. On their Application, the Landlord stated: "When confronted during the final walk-through inspection on February 28, 2022 at approximately 1730 hours, [the Tenant] stated [they] would return them but has not."

Analysis

To be successful in a claim for compensation for damage or loss the Applicant has the burden to provide enough evidence to establish the following four points:

- That a damage or loss exists;
- That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
- The value of the damage or loss; **and**
- Steps taken, if any, to mitigate the damage or loss.

The *Act* allows for an early end to the tenancy, after a landlord gives a notice to end a tenancy only in certain circumstances, as per s. 50(1) of the *Act*. This is where a landlord ends the tenancy for their own use of the property, where a tenant ceases to qualify via subsidy for the rental unit, or the Residential Tenancy Branch has granted an order to end the tenancy after hearing a landlord's application regarding renovations.

None of these conditions were present here, and the Landlord ended the tenancy through s. 47 of the *Act*. The Tenant did not dispute the Landlord ending the tenancy in this manner. With none of the conditions present, I find the Tenant is bound by s. 45 of the *Act*, that which sets a strict effective end-of-tenancy date of not earlier than one month after the date the landlord receives the notice.

In these circumstances, I find the Landlord's claim for compensation of March 2022 rent is valid, with March 31, 2022 being the earliest end-of-tenancy date available to the Tenant, as per the *Act*. I grant the Landlord's claim for compensation for that one full month's rent amount, \$1,400.

The *Act* s. 37(2) requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys and 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 find the evidence shows the Tenant took curtains that belonged in the rental unit. This is shown in the Landlord's evidence of text messages with the Tenant where they stated: "I got rid of your curtains when I was moving, I have two panels of curtain to replace them."

I find that a loss to the Landlord exists as a result of the Tenant keeping the curtains, and neither returning them nor replacing them. The Landlord did not prove the value of the curtains' replacement even though they stated they made that purchase in mid-March, there is no evidence of a purchase that shows this exact value. I dismiss this piece of the Landlord's claim for this reason.

I find the Landlord has established a claim of \$1,400. This is based on a review of the available evidence and their testimony. The Landlord was successful in this claim; therefore, I find they are eligible for reimbursement of the Application filing fee.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit and/or pet damage deposit held by a landlord. The Landlord here has

established a claim of \$1,400. After setting off the security deposit \$700, there is a balance of \$700. I am authorizing the Landlord to keep the amount of \$700 and award the balance of \$700 to the Landlord with a Monetary Order to them.

Conclusion

Pursuant to s. 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$800 for the rent amount owing, and the filing fee. I provide this Monetary Order in the above terms and the Landlord must serve the Monetary Order to the Tenant as soon as possible. An instruction sheet accompanies this decision, giving information on service.

Should the Tenant fail to comply with the Monetary Order, the Landlord may file it in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: November 24, 2022

Residential Tenancy Branch