



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding R A REAY ALLIANCE INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-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. No one was in attendance on behalf of the tenant. The landlord gave sworn testimony that she personally served the tenants notice of this application and this hearing on April 26, 2022. Based on the submissions of the landlord, I find the tenants were served in accordance with section 89 of the *Act*. Therefore, I continued in the absence of the tenants.

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

The landlord's undisputed testimony is as follows. The tenancy began on March 10, 2018 and ended on February 28, 2022. The tenants were obligated to pay \$2995.00 per month in rent and at the outset of the tenancy the tenants paid a \$1497.50 security deposit which the landlord still holds. The landlord testified that the tenants started falling behind in paying their rent during the COVID- 19 pandemic. The landlord testified that they would make partial payments but never fully caught up. The tenants continue to owe the landlord \$9054.00 in unpaid rent. The landlord seeks that amount along with the recovery of the \$100.00 filing fee for this application .

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. I address the landlords claim and my findings as follows.

The landlord provided extensive documentation, undisputed testimony and documentation to support the balance of their application. The landlord has provided sufficient evidence to support the remainder of her claim and is entitled to \$9054.00 in unpaid rent plus the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$9154.00. I order that the landlord retain the \$1497.50 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$7656.50. 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: December 13, 2022

Residential Tenancy Branch