



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for a monetary order in the amount of \$800 for money owing or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord, an agent for the landlord, NH (agent) and the tenant attended the teleconference hearing and gave affirmed testimony. The parties were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The tenant confirmed that they had received documentary evidence from the other party and also had the opportunity to review that evidence prior to the hearing. The tenant also confirmed that they did not serve documentary evidence on the landlord. I find the tenant was served in accordance with the Act.

Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing. The parties were also advised that the decision would be emailed to the parties.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of a tenancy agreement was submitted in evidence. A fixed-term tenancy began on April 29, 2014 and converted to a month-to-month tenancy after April 30, 2016. By the end of the tenancy, monthly rent was \$3,251 per month and rent was due on the first day of each month. The tenant paid a security deposit of \$1,475, which the landlord continues to hold.

The landlord's monetary claim for \$800 is comprised of the following:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Strata fine	\$500
2. Strata fine	\$200
3. Filing fee	\$100
TOTAL	\$800

Regarding item 1, the landlord has claimed \$500 for a fine imposed on the landlord by the strata due to the tenant renting out the rental unit as a short-term rental, however the letter is silent in terms of the wording of the Strata Rule the tenant violated. While the tenant recalls signing a Form K and was made aware of the Strata Rules, the tenant denied renting the rental unit for short-term rentals.

Regarding item 2, the landlord has claimed \$200 for a fine imposed on the landlord by the strata due to the tenant violating a move out bylaw infraction. The tenant admitted that they moved out on December 28, 2021, without first getting permission to move out from the strata or owner. The tenant claims the concierge was aware however failed to provide any emails or other evidence to support that the strata had been made aware or that the strata delegated their authority regarding move-outs to the concierge.

Item 3 relates to the filing fee, which I will address later in this decision.

Analysis

Based on the documentary evidence presented, the testimony of the parties and on the balance of probabilities, I find the following.

Item 1 – As the tenant denied renting the rental unit as a short-term rental and without a letter detailing the wording of the bylaw being breached, I find the landlord has provided insufficient evidence to support this portion of their claim. Therefore, I dismiss this portion of the landlord's application, without leave to reapply. The landlord may wish to file a dispute with the Civil Resolution Tribunal if they feel the strata has incorrectly fined the landlord in this matter versus fining the tenant directly. I make no findings on whether what the strata did in this situation was legal as the Civil Resolution Tribunal has exclusive jurisdiction to make the determination.

Item 2 – As the tenant admitted that they moved out of the rental unit without permission of the strata or landlord on December 28, 2021, I find the tenant is liable for the \$200 strata fine imposed and that the landlord must be compensated for that amount. I reach this finding as the tenant confirmed having signed the Form K and received the strata rules and I am not persuaded by the concierge being aware of the move as I have insufficient evidence before me that the concierge is agent for the strata directly. As such, I award the landlord **\$200** as claimed for this item.

As the landlord's claim was partially successful, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100** pursuant to section 72 of the Act.

Based on the above, I find the landlord has established a total monetary claim of \$300, comprised of item 2 of \$200 and the filing fee of \$100. Pursuant to section 67 of the Act, I grant the landlord a monetary order in the amount of **\$300**.

Conclusion

The landlord's claim is partially successful.

The landlord has established a total monetary claim of \$300. The landlord has been granted a monetary order in that amount.

Should the tenant fail to pay this amount, this order must be served on the tenant by the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The tenant is reminded that any costs associated with enforcing the monetary order may be responsibility of the tenant, including court costs.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant, as necessary.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 8, 2023

Residential Tenancy Branch