



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MND-S, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for compensation for alleged damage to the rental unit by the tenant, authority to keep the tenant's security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The landlord and their son (MB/agent), representing the landlord, attended the hearing; however, the tenant did not attend.

The landlord submitted they served the tenant with their application for dispute resolution, evidence, and Notice of Hearing (application package) by registered mail on June 22, 2022, the day they were provided the application package by the Residential Tenancy Branch (RTB). The landlord filed the Canada Post tracking number as evidence.

I find the tenant was sufficiently served the landlord's application as required by the Act and the hearing proceeded in the tenant's absence.

MB was provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules of Procedure (Rules). However, not all details of the agent's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and

findings in this matter are described in this Decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary Issue –

The tenant filed evidence with the RTB. The landlord said they did not receive any evidence from the tenant. The tenant did not appear to present their evidence.

Issue(s) to be Decided

Is the landlord entitled to the requested monetary compensation from the tenant and recovery of the filing fee?

Background and Evidence

The agent submitted that the tenancy began in March, 2020, and ended July, 2022. The monthly rent was \$1,350 and the tenant paid a security deposit of \$675. The ; jas retained the tenant's security deposit. Filed into evidence was a copy of the written tenancy agreement.

The landlord's monetary claim as shown on their monetary order worksheet filed into evidence is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Walls	\$300
2. Fridge	\$350
3. Junk removal	\$450
TOTAL	\$1,100

The agent submitted that they are entitled to the monetary compensation sought to clean and repair the damage done to the rental unit during the tenant's tenancy and to remove the excessive amount of garbage and personal property left behind by the tenant. The agent submitted that the tenant caused much more damage than listed in the monetary claim, such as damage to the refrigerator, the walls, and the laundry machine, all beyond reasonable wear and tear.

The agent submitted that they had a significant cost in junk removal.

The landlord submitted photographs of the state of the rental unit, the junk left behind, and invoices for costs, which I note far exceeded the monetary claim.

The agent said they just want to keep the tenant's security deposit and call it even to satisfy their monetary claim.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party has the burden of proof to substantiate their claim on a balance of probabilities.

At the hearing, the agent explained that they had incurred the loss as a result of the significant damage done to and the condition of, the rental property necessary to bring the rental unit back to a habitable state. The agent provided photographs showing the damage and unclean state of the rental unit along with receipts in support of these costs.

Residential Tenancy Policy Guideline #16 notes, "The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due." This *Guideline* continues by explaining, "the party who suffered the damage or loss can prove the amount of or value of the damage or loss."

I find that the landlord provided sufficient evidence that the tenant did not leave the rental unit reasonably clean and undamaged, less reasonable wear and tear. I therefore find the tenant did not comply with their obligation under the Act, and that it was necessary for the landlord to incur the costs claimed. Furthermore, I find the photographs submitted in evidence to accurately show the extent of the damage caused by the tenant and that these costs were reasonable.

I therefore find the landlord submitted sufficient evidence to support their claim of \$1,100 and the filing fee of \$100. I therefore find the landlord has established a total monetary claim of \$1,200.

As a result, I authorize the landlord to keep the tenant's security deposit of \$675, as requested, in satisfaction of their monetary claim.

Conclusion

The landlord has submitted sufficient evidence to support their monetary claim of \$1,200 and is authorized to keep the tenant's security deposit they retained, the amount of \$675, in satisfaction of their claim.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 18, 2023

Residential Tenancy Branch