



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHARMAINE INVESTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing took place by conference call based on an Application for Dispute Resolution filed by the Landlord July 08, 2022 (the “Application”). The Landlord applied:

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

K.C. and K.C. (the “Agents”) appeared at the hearing for the Landlord. The Tenant did not appear at the hearing. I explained the hearing process to the Agents. The Agents provided affirmed testimony.

The Landlord provided evidence prior to the hearing. The Tenant did not provide evidence. I went over service of the hearing package and Landlord’s evidence.

The Agents said the hearing package was served on the Tenant in person by July 29, 2022. The Agents confirmed the Landlord’s evidence was sent to the Tenant by email. The March 10, 2023 email is in evidence and has an amendment and Monetary Order Worksheet attached. The Agents said the evidence was also mailed to the Tenant at their workplace.

I accept the undisputed testimony of the Agents and find the Tenant was served with the hearing package in accordance with section 89(1)(a) of the *Residential Tenancy Act* (the “Act”) by July 29, 2022. I find the Landlord complied with rule 3.1 of the Rules of Procedure (the “Rules”) in relation to the timing of service.

The Landlord was granted a substituted service order in a Decision issued July 26, 2022, allowing the Landlord to serve the Tenant by email. The Landlord provided an email showing their evidence, amendment and Monetary Order Worksheet were emailed to the Tenant. Based on the substituted service Decision, the Tenant is considered to have received the documents March 13, 2023. The Landlord complied with rule 3.14 of the Rules in relation to the timing of service.

Given the Tenant was served, I held the hearing without the Tenant present. The Agents were given a chance to provide relevant evidence and submissions. I have considered all evidence provided. I will only refer to relevant evidence in this Decision.

Issues to be Decided

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

Background and Evidence

The Landlord sought the following compensation:

Item	Description	Amount
1	Rent owing – July and August	\$3,500.00
2	Liquidated damages	\$875.00
3	Late and NSF fees	\$75.00
4	Strata fines	\$392.43
5	Cleaning	\$100.00
6	Carpet cleaning	\$210.00
7	Replace FOBs and parking remote	\$200.00
8	Change locks	\$84.14
9	Replace mailbox key	\$50.00
10	Drain issues	\$703.50
11	Removal of bed in closet	\$67.50
12	Filing fee	\$100.00
	TOTAL	\$6,357.57

The Landlord submitted a written tenancy agreement.

The Agents provided the following testimony and submissions.

The Tenant was issued a 10 Day Notice for unpaid rent. The Agents think the Tenant moved out of the rental unit around the end of June; however, they were not able to access the rental unit until July 19, 2022.

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

The Condition Inspection Report ("CIR") in evidence is accurate. Both parties did a move-in inspection. The Tenant moved out of the rental unit without notice to the Landlord. The Agents offered the Tenant three opportunities to do a move-out inspection. The Agents did a move-out inspection on their own.

The Tenant did not pay July rent.

The rental unit could not be re-rented for August because it had to be painted and the carpet had to be replaced due to damage caused by the Tenant. It was hard to find tradespeople to do the painting and carpet replacement.

Term 39 of the tenancy agreement sets out liquidated damages.

Term 19 of the tenancy agreement sets out late fees. The Tenant paid rent late three times.

The Tenant hit the garage door trim when moving in and owes strata \$392.43 for repairing the damage.

The Tenant did not leave the rental unit reasonably clean at the end of the tenancy.

The Landlord had the carpet in the rental unit cleaned before they realized the damage to the carpet could not be repaired and the carpet had to be replaced.

The Tenant did not return keys or FOBs to the rental unit and the Landlord had to pay for replacement FOBs, a parking remote, a mailbox key and had to change the locks.

The Tenant and their child put items down the kitchen sink and dishwasher drain which clogged these causing plumbing issues during and at the end of the tenancy. The Landlord had to have the drain issues repaired. The Tenant also damaged the dishwasher and caused the motor to burn out.

The Tenant installed a plywood bed in a closet of the rental unit and used over 60 screws to attach this to the walls. The Tenant did not remove this at the end of the tenancy and the Landlord had to hire someone to remove it.

The Landlord provided evidence to support their claims including a 10 Day Notice, rent ledger, photos, invoices, the CIR and correspondence between the parties.

Analysis

I accept the undisputed testimony of the Agents and documentary evidence of the Landlord and find the following based on these.

Security Deposit

The Tenant has not provided the Landlord with a forwarding address in writing and therefore the Landlord was allowed to claim against the security deposit when the Application was filed given sections 38 and 39 of the *Act*.

Compensation

Section 7 of the *Act* sets out the authority to claim and award compensation.

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.

The Tenant was required to pay rent while in possession of the rental unit under sections 26 and 57 of the *Act*.

The Tenant was required to leave the rental unit and property reasonably clean and undamaged, except for reasonable wear and tear, at the end of the tenancy under section 37 of the *Act*.

Term 39 of the tenancy agreement addresses liquidated damages.

Term 19 of the tenancy agreement sets out fees for late rent payments.

The Tenant is responsible for paying for damage they caused to the rental unit and property during the tenancy under section 32 of the *Act*.

The Tenant was required to return all keys and other means of access to the rental unit and property at the end of the tenancy under section 37 of the *Act*.

I accept that the Tenant breached the above sections of the *Act* and terms of the tenancy agreement as claimed by the Landlord. I accept the Landlord experienced loss or damage because of the Tenant's breaches. I accept the amount or value of the loss or damage is as stated in the Monetary Order Worksheet. I find the costs claimed reasonable and note that the Tenant did not appear at the hearing to dispute the amounts. The Landlord is awarded the amounts claimed.

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

Summary

In summary, the Landlord is entitled to the following compensation:

Item	Description	Amount
1	Rent owing – July and August	\$3,500.00
2	Liquidated damages	\$875.00
3	Late and NSF fees	\$75.00
4	Strata fines	\$392.43
5	Cleaning	\$100.00
6	Carpet cleaning	\$210.00
7	Replace FOBs and parking remote	\$200.00
8	Change locks	\$84.14
9	Replace mailbox key	\$50.00
10	Drain issues	\$703.50
11	Removal of bed in closet	\$67.50
12	Filing fee	\$100.00
	TOTAL	\$6,357.57

The Landlord can keep the \$875.00 security deposit under section 72(2) of the *Act*. The Landlord is issued a Monetary Order for the remaining \$5,482.57 under section 67 of the *Act*.

Conclusion

The Landlord can keep the \$875.00 security deposit. The Landlord is issued a Monetary Order for the remaining \$5,482.57. This Order must be served on the Tenant. 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: April 05, 2023

Residential Tenancy Branch