



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for unpaid rent and for loss or damage to the unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 1:55 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on August 18, 2022, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord subsequently sent an evidence package to the tenant by registered mail on March 24, 2023. During the hearing, the landlord provided a registered mail tracking number in support of service and testified that both the items had been picked up by the tenant.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to a monetary award for unpaid rent and for loss or damage to the rental unit?

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 recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on June 1, 2020 with a monthly rent of \$1950.00 payable on the 1st day of each month. The tenant paid a security deposit of \$975.00 at the start of the tenancy which the landlord continues to hold. In November 2021, the tenant gave notice to end the tenancy effective December 31, 2021 by text message.

The landlord submitted a "monetary order worksheet" which provides a breakdown of the landlord's claims totaling \$2690.00 comprised of the following:

- \$1950.00 in outstanding rent for the month of December 2021. The landlord submitted a copy of a cheque returned from the bank due to insufficient funds. The landlord is also seeking to recover the \$20.00 NSF charge.
- \$300.00 for a missing antique table. The landlord testified the table was left in the kitchen of the rental unit as it went with the kitchen. The table was missing at the end of the tenancy. The landlord submitted a copy of a cheque as proof of purchase of the table in the original amount of \$330.00.
- \$180.00 for extra cleaning work required to disinfect the unit of a strong pet urine odour. A cheque as proof of payment for this expense was submitted as evidence.
- \$240.00 for having to repaint the kitchen cabinets. The landlord testified that the tenant painted the cabinets baby blue without permission. Although the tenant painted the cabinets back to the original color at the end of the tenancy, the tenant did a very poor job leaving brush streaks everywhere. Pictures were submitted in support as well as a cheque as proof of payment for having the cabinets repainted.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 37 of the Act requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

I accept the landlord's undisputed testimony and evidence and find the landlord suffered a loss as claimed in the amount of \$2690.00. I find the tenant did not pay rent for December 2021 as evidenced by the NSF cheque. I find the landlord suffered a loss due to the missing antique table, having to clean the rental unit and re-paint the kitchen cabinets. I find this loss was due to the actions or neglect of the tenant and the landlord submitted sufficient evidence in support of the loss claimed.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2790.00.

The landlord continues to hold a security deposit in the amount of \$975.00. I allow the landlord to retain the security deposit and pet deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1815.00.

Conclusion

Pursuant to section 67 of the Act, I grant the landlord a Monetary Order in the amount of \$1815.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: April 25, 2023

Residential Tenancy Branch