



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 pursuant to section 67;
- a monetary order for damage to the rental 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 tenants did not attend this hearing, although I waited until 1:50 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on September 27, 2022, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenants by registered mail. The landlord submitted registered mail receipts and tracking numbers in support of service. On May 10, 2023, the landlord sent additional evidence to the tenants also by registered mail, receipts and tracking numbers for those packages were also submitted as evidence. The landlord testified that the mail was sent to a forwarding address provided by the tenants at the move-out inspection.

Based on the above, I find the tenants to be deemed served with the landlord's 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 tenants.

Issues

Is the landlord entitled to a monetary award for unpaid rent and 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 tenants?

Background and Evidence

The tenancy began on August 1, 2021 and ended on September 8, 2022. The monthly rent was \$2600.00. The tenants paid a security deposit of \$1250.00 which the landlord continues to hold.

The landlord is claiming a total of \$3,420.00 comprised of the following:

- \$2600.00 in outstanding rent for the month of September 2022. The landlord testified the tenants did not pay rent for this month and did not provide a full calendar month notice to vacate. The landlord submitted an e-mail from the tenants dated August 17, 2022 with a notice to vacate September 1, 2022.
- \$250.00 for carpet cleaning. The landlord testified the tenants did not clean the carpets at the end of the tenancy as required by the tenancy agreement. Photos of the condition of the carpets at the end of tenancy were submitted as evidence as well as an invoice for the cleaning.
- \$420.00 for junk removal. Pictures of junk left behind were submitted in support as well as an invoice.
- \$50.00 for a broken glass lamp. The landlord submitted a list of possessions included in the rental unit at the start of the tenancy which was signed off by the tenants. Picture of the broken lamp was submitted as evidence. The landlord did not submit any evidence in support of original cost of the lamp or replacement cost.
- \$100.00 for the filing fee.

The landlord also submitted a move-in and move-out condition inspection reports in support of the above claims.

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 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date after the landlord receives the notice, and*
- (b) is before the day in the month...that rent is payable under the tenancy agreement.*

A notice given under this section must be in writing and comply with the form and content requirements of section 52 of the Act.

I accept the landlord's testimony and evidence and find the tenants did not provide sufficient notice to end the tenancy; therefore, the tenants were still responsible to pay rent for September 2022. With a notice given August 17, 2022, the earliest the tenants could have ended the tenancy was September 30, 2022. I accept the landlord's claim for loss of rent in the amount of \$2600.00.

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 find that the tenants did not have the carpets professionally cleaned at the end of the tenancy and did not leave the rental unit reasonably clean and undamaged. I find the landlord suffered a loss as submitted for carpet cleaning and junk removal. These claims are supported by the pictures and invoices submitted. The landlord is awarded \$250.00 for carpet cleaning and \$420.00 for junk removal.

The landlord provided insufficient evidence to establish the value to replace the broken lamp. This claim is dismissed.

I find the landlord has established a claim in the total amount of \$3,270.00. 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 \$3,370.00.

The landlord continues to hold a security deposit in the amount of \$1,250.00. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act. Therefore, the landlord is entitled to a Monetary Order in the amount of \$2,120.00.

Conclusion

Pursuant to section 67 of the Act, I grant the landlord a Monetary Order in the amount of \$2,120.00. Should the tenants 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: June 06, 2023

Residential Tenancy Branch