



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNR MND MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on May 23, 2023. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was present at the hearing and provided affirmed testimony. The Landlord sent the Tenant his Notice of Dispute Resolution Proceeding and evidence via email on November 18, 2022, in accordance with his approved substituted service request. Pursuant to that approval, I find the Tenant is deemed served with that package 3 days after the email was sent.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit, for damage or loss under the Act, and for unpaid rent?
- Is the Landlord authorized to retain all or a portion of the Tenant's security and pet deposit in partial satisfaction of the monetary order requested pursuant to section 38?

Background and Evidence

The Landlord stated that monthly rent was set at \$1,850.00 and was due on the first of the month. The Landlord holds a security deposit in the amount of \$925.00. The Landlord stated that he is seeking the following items:

- 1) \$3,700.00 – unpaid rent for July and August 2022

The Landlord explained that the Tenant suddenly vacated the rental unit sometime in the summer of 2022, without any sort of notice, and without providing any sort of forwarding address in writing to the Landlord. The Landlord stated that he was made aware the Tenant had vacated the rental unit on or around August 24, 2022, and at that point, the Tenant hadn't paid any rent for July or August. The Landlord is seeking to recover these two months rent, less the amount the Tenant paid in April of 2023, \$1,378.50. This leaves \$2,321.50 owing for rent at this time.

- 2) \$425.00 – Costs related to cleaning and repairing the unit

The Landlord stated he had to drive to the location of the rental unit, from out of town to clean the unit (it was not cleaned before the Tenant vacated), and to repair the broken thermostat. The Landlord provided a credit card statement showing a few of the above noted transactions, but did not provide any receipts showing what was purchased and when. Generally, the Landlord was seeking costs for cleaning supplies, gas to drive to the rental unit from where he lives, cost of thermostat and installation.

Analysis

The Landlord is seeking monetary compensation for several items, as laid out above. These items will be addressed in the same order for my analysis. A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's undisputed documentary evidence and testimony before me to demonstrate that the Tenant owes and has failed to pay \$2,321.50 in rent after accounting for the recent payment made by the Tenant.

With respect to the other items sought, I find the Landlord has failed to sufficiently prove the value of his loss, as he failed to provide any receipts for the above noted items (gas, thermostat, electrician labour, cleaning supplies). I do not find a cryptic credit card statement is sufficient to show what was spent, on what, and when.

That being said, I note that Tenants are required to leave the rental unit reasonably clean at the end of the tenancy. As per the photos provided into evidence, I find this was not done, and the Tenant breached the *Act* in this regard.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

I find a nominal award is appropriate and I award \$100.00 for the lack of cleaning done by the Tenant.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount owed by the Tenant. In summary, I grant the monetary order based on the following:

Claim	Amount
Rent owing	\$2,321.50
Cleaning - Nominal	\$100.00
Filing fee	\$100.00
Less: Security Deposit currently held by Landlord	(\$925.00)
TOTAL:	\$1,596.50

Conclusion

The Landlord is granted a monetary order in the amount of **\$1,596.50**, as specified above. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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 13, 2023

Residential Tenancy Branch