



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MND 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 25, 2023. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit and for damage or loss under the Act; and,
- to recover the cost of the filing fee.

The Landlord's legal counsel attended the hearing, referred to as the Landlord. The Tenant did not attend the hearing. The Landlord stated that she sent the Tenant a copy of the Notice of Hearing and evidence by registered mail on September 15, 2022. This was sent to the address the Tenant provided as her forwarding address at the previous hearing. The Landlord provided proof of service into evidence. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received these documents on September 20, 2022, the fifth day after their mailing.

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 and for damage or loss under the Act?

- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that they are seeking monetary damages related to the cleanup and repair of the rental unit.

The Landlord is seeking the following:

1) \$1,851.47 – Bailiff Services

The Landlord explained that they had a previous hearing, where they were awarded an Order of Possession, which they served and enforced on the Tenant because she failed to comply with that Order. The Landlord stated that the above noted amount was incurred because they had to file for a writ of possession, and hire a bailiff to remove the Tenant, and her belongings, after she failed to comply with the Order of Possession after the last hearing. The receipt was provided by the Landlord.

2) \$8,610.00 – Repairs

The Landlord explained that the Tenant had turned her rental suite into a bird farm, and had countless birds flying around, nesting, and living in all areas of the rental unit. Photos were provided of the mess, the debris, and the damage. The Landlord explained that the Tenant's birds did irreparable damage to the drywall, the walls, several appliances, cabinets, and wiring. The Landlord provided an invoice for the above noted amount based off the following items:

S.no	Amount
DRYWALL	\$1,500
PAINT	\$2,500
CABINET	\$1,000
PLUMBING	\$1,200
CLEAN UP	\$1,500
ELECTRICTIO N	\$500
GST	\$410
TOTAL	\$8,610

The Landlord pointed out that the Tenant and/or her birds completely blocked the toilet, broke a kitchen faucet, ruined several cabinets and interior doors, and the Landlord was left having to repair and clean and paint the entire suite due to the excessive bird damage.

3) \$26.64 – Cleanup

The Landlord explained that part way through the tenancy, the municipality sent them a letter saying the rental unit was unsightly and would be subject to fines if it was not cleaned up. The Landlord provided a copy of the letter and stated that the Tenant failed to clean up, so they had to, which took about an hour of their time. This amount is an estimate of their labour.

Analysis

In this instance, the burden of proof is on the Landlords 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 Tenants. Once that has been established, the Landlords 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.

Based on all of the above, the evidence and the explanation provided at the hearing, I find the Landlord has sufficiently demonstrated that the Tenant is responsible for all of the items listed on her worksheet, and as laid out above. I award the Landlord the full amount of their claim. I note the Tenant left behind an egregious mess, and significantly damaged the rental unit, largely due to the presence of many birds free-flying in the rental unit, and nesting in various areas. I accept that the damage noted by the Landlord was caused by the Tenant and her birds, and I also note this rental unit was only 2 years old at the time the tenancy ended, so this type of damage is well beyond normal wear and tear for a rental unit of this age. I also award the bailiff costs, as they were incurred because the Tenant failed to comply with an RTB order. I award \$10,488.11.

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 substantially successful with their application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

In summary, I find the Landlord is entitled to a monetary order in the amount of \$10,588.11.

Conclusion

The Landlord is granted a monetary order in the amount of \$10,588.11., 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 7, 2023

Residential Tenancy Branch