



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

| | |
|-----------------------|---------------------|
| Landlord Application: | MNRL-S, MNDL-S, FFL |
| Tenant Application: | MNSDB-DR |

Introduction

The Landlord filed an Application for Dispute Resolution on October 1, 2022 seeking compensation for rent amounts owing, damage in the rental unit, and the Application filing fee.

The Tenant filed their own Application on October 17, 2022 for the return of the security deposit after the tenancy ended. Though they applied via the Direct Request non-hearing method, the Landlord's Application was already in place and the Residential Tenancy Branch linked the two applications.

The Landlord attended the conference call hearing; the Tenant did not attend. I gave the Landlord the opportunity to ask questions on the hearing process, and explained that process fully to the Landlord at the outset.

Preliminary Matter – parties' service of Dispute Resolution Proceeding and evidence

The Landlord presented evidence that they served the Notice of Dispute Resolution Proceeding and their prepared evidence to each Tenant via registered mail. This was on October 20, 2022 via registered mail, after they received the documentation from the Residential Tenancy Branch on October 17. The Landlord provided an image of each registered mail envelope, each receipt from the post office, and the registered mail label.

The Landlord's image of each envelope showed it was not retrieved, and returned to them as the sender. Each envelope bears the Tenant's address that they provided to the Landlord at the end of the tenancy.

On the Landlord's evidence and additional details that they provided in the hearing, I find they served the Tenant as required by s. 59(3) of the *Act*. This was in a manner specified by s. 89(1)(c) of the *Act*. I give the Landlord's Application details and evidence full consideration in this hearing.

The Tenant did not attend the hearing as scheduled. The Residential Tenancy Branch notified the Tenant of their Application linked to that of the Landlord, via the Tenant's own Notice of Dispute Resolution Proceeding sent to them on November 2, 2022.

The Landlord stated they did not know about the Tenant's Application, and there is no evidence on record to show the Tenant duly served the Landlord as required. I find this prejudiced the Landlord where they were not aware of the Tenant's Application; therefore, I dismiss the Tenant's Application in its entirety, without leave to reapply. I cover the dispensation of any deposits the Tenant paid to the Landlord as part of the Landlord's Application.

Issues to be Decided

Is the Landlord entitled to compensation for any rent amounts owing, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to compensation for damage in the rental unit, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement in their evidence. This was jointly signed by the parties on April 6, 2022 for the tenancy starting on May 1, 2022. This was for a fixed term to end on September 30, 2022. The rent amount was \$2,645

payable on the first day of each month. The agreement shows the Tenant paid a security deposit of \$1,322.50 on “lease signing”, and a pet damage deposit of \$1322.50 paid on May 1, 2022.

The parties jointly signed a document titled “Condition Inspection Report” that sets out the state of the rental unit at the start of the tenancy, on April 29, 2022. This included an itemized inventory of the furnished rental unit.

The parties met prior to the Tenant’s moveout from the rental unit on September 16, 2022. The Tenant provided their forwarding address to the Landlord at that time. The completed and Tenant-signed Condition Inspection Report shows the Tenant’s signature stating that they agree to the deduction of \$1,325 “for portion of unpaid rent”, and that the Tenant never paid a pet damage deposit. IN the hearing, the Landlord clarified that the security deposit amount paid by the Tenant was \$1,322.50, and that there was no pet damage deposit paid.

This is shown in the bank statement provided by the Landlord that shows all deposits from the Tenant, by name, as follows:

- 8/4/22: \$1,322.50
- 2/5/22: \$2,645
- 2/6/22: \$2,645
- 4/7/22: \$1,000
- 2/8/22: \$1,000

The Landlord claims for the remaining amounts of rent from July, August, and the full amount of rent for September 2022. This total is \$5,935.

The Landlord stated in the hearing that the Tenant left on their own after a discussion with the Landlord about the Tenant’s inability to continue to pay rent. The parties met on September 16, 2022, reviewed the condition of the rental unit, and the Tenant returned the keys to the Landlord at that time.

The Landlord noted specific damage to the rental unit:

1. cleaning – dirty dishwasher and couch: \$128.63 – the Landlord noted this specifically on the Condition Inspection Report, and provided pictures that show this specifically, a full dishwasher, and fur on the sofa from a pet. The invoice details \$70 per hour for 2 cleaners, total of 1.75 hours

2. missing blanket - \$61.54 – the Landlord provided an image of the throw blanket that was specifically listed as missing at the end of the tenancy, as well as the blanket the Tenant tried to replace it with – the Landlord provided an image of an estimated total online, including shipping cost \$14.97
3. replacement lock \$91.82 – the Landlord in the hearing described the Tenant being locked out from the rental unit, and then hiring a locksmith who drilled out the lock for their entry. The Tenant then replaced the drilled-out lock on their own; however, this did not match to other rental units' locks in the rental unit property. The Landlord provided an invoice for this amount.

Analysis

I find as fact that the monthly rent amount to be paid by the Tenant was \$2,645, as per the agreement the Landlord provided in the evidence. I find the Tenant paid a security deposit *only* of \$1,322.50, and no pet damage deposit, as confirmed by the Landlord in the hearing.

By s. 26 of the *Act*, a tenant must pay rent when it is due under the tenancy agreement, unless a tenant has a right to deduct some portion thereof.

I find the Landlord credible on their account of the rent amounts paid by the Tenant over the course of this tenancy. There is a shortfall of \$5,935, including the full rent for the month of September 2022.

A per s. 37 of the *Act*, a tenant, when they vacate a rental unit, must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Under s. 7 of the *Act*, a landlord or tenant who does not comply with the legislation or their tenancy agreement must compensate the other for damage or loss. Additionally, the party who claims compensation must do whatever is reasonable to minimize the damage or loss. Pursuant to s. 67 of the *Act*, I shall determine the amount of compensation that is due, and order that the responsible party pay compensation to the other party if I determine that the claim is valid.

To be successful in a claim for compensation for damage or loss an applicant has the burden to provide sufficient evidence to establish the following four points:

- That a damage or loss exists;
- That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
- The value of the damage or loss; **and**
- Steps taken, if any, to mitigate the damage or loss.

On each of the three points for other compensation claimed by the Landlord, I find as follows:

1. cleaning – dirty dishwasher and couch: \$128.63: from the Landlord's evidence, I find it more likely than not that the Tenant did not leave the rental unit in a state that was not reasonably clean, requiring extra expense to the Landlord. I grant this amount to the Landlord in full.
2. missing blanket - \$61.54 – I am not satisfied of the value of this item from what the Landlord provided showing an online item, without proof of purchase.
3. replacement lock \$91.82 – I find this constitutes damage to the rental unit and presented an unnecessary expense to the Landlord for lock replacement. I grant this amount to the Landlord in full.

I find the Landlord was for the most part successful in this Application; therefore, I grant the full amount of the Application filing fee to them. This amount is \$100.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by a landlord. The Landlord here established a claim of \$6,255.45. After setting off the security deposit amount of \$1,322.50, there is a balance of \$4,932.95. I am authorizing the Landlord to keep all of the security deposit, and order the Tenant to pay the remaining amount of \$4,932.95

Conclusion

As above, I dismiss the Tenant's Application in its entirety, without leave to reapply.

I order the Tenant to pay to the Landlord the amount of \$4,932.95. I grant the Landlord a monetary order for this amount, and they must serve it to the Tenant as soon as

possible. The Landlord may file this monetary order at the Provincial Court (Small Claims) where it will 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 s. 9.1(1) of the *Act*.

Dated: June 26, 2023

Residential Tenancy Branch