



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDC-S, FF

Introduction

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for compensation for a monetary loss or other money owed, authority to keep the tenants' security deposit to use against a monetary award and recovery of the filing fee.

The landlord's agent and the tenants attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me. No issues were raised by the tenants regarding service of the landlord's application for dispute resolution, evidence, and notice of hearing (NODRP). No evidence was filed by the tenants.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to the relief sought above?

Background and Evidence

The tenancy began on January 1, 2021, and ended at the end of September 2022. The tenants paid a security deposit of \$875, which the landlord continues to hold. The rental unit is in a strata building.

The landlord's monetary claim is \$800, for unpaid strata fines.

The landlord submitted that beginning in July 2022, they began receiving notifications from the strata management company with notices of fines being assessed to the landlord's account. The fines involved the tenants' vehicle's failure to stop and wait for the visitor's gate to fully close and unauthorized parking in the visitors' parking stalls, again by the tenants or their guests. The landlord was assessed over \$1000 in fines, but they were able to negotiate a settlement of \$800, which is the total of the claim.

The agent submitted the tenants were notified, but the unauthorized parking continued.

The agent said the tenants signed a Form K for strata responsibilities and their violation of the bylaws caused the landlord to incur costs of \$800. The agent submitted that the fines were charged to the landlord's account and the landlord has paid the \$800.

The landlord submitted the notices of the fines from the strata management company, citing the specific bylaw violation and further details of the breach.

In response, the tenants submitted that the problem was that they were notified long after the incidents occurred and were therefore unable to advise their friend not to park in the visitors' parking stall and correct the situation. The incidents occurred on July 8 and 11, and only got the first notice on July 19, 2022. They then received another notice in September 2022. The tenants submitted they were unaware of the restrictions for overnight parking. The tenants submitted that there was another mistake by a friend and it began to appear they were being targeted.

The tenants did admit to signing the Form K and to receiving a copy of the bylaws.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party has the burden of proof to substantiate their claim on a balance of probabilities.

The evidence shows the tenants signed the Strata Form K, in which they agreed to comply with the strata bylaws, which in turn, I find became part of the tenancy agreement. Additionally, the tenants agreed they received a copy of the bylaws.

While the tenants claim they were not aware of the violations until after the incidents, I find the tenants ought to have known that the bylaws were violated. I find it was the tenants' responsibility to be aware of the bylaws, as part of their tenancy agreement, and to ensure that their guests also complied with the bylaws.

I find the landlord submitted sufficient evidence to show the tenants' or their guests' breaches of the strata bylaws caused the landlord to incur a loss of \$800. I find the landlord has established a monetary claim of **\$800**.

Due to their successful application, I grant the landlord recovery of their filing fee of **\$100**, bringing the landlord's total monetary award to **\$900**.

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To date, the tenants' security deposit has accumulated interest of \$9.35.

Using the offsetting provisions contained in section 72 of the Act, the landlord may withhold the tenant's security deposit and interest of \$884.35 in partial satisfaction of the monetary award.

Conclusion

I issue a monetary order of **\$15.65** in favour of the landlord as follows:

ITEM	AMOUNT
1. Strata fines	\$800.00
2. Filing fee	\$100.00
3. <i>Less security deposit, interest</i>	<i>(\$884.35)</i>
TOTAL	\$15.65

The landlord is provided with a Monetary Order in the above terms and the tenants must be served with this order as soon as possible to be enforceable. 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 19, 2023

Residential Tenancy Branch