

DECISION

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for unpaid rent under section 67 of the Act
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

and the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for the return of all or a portion of their security deposit under sections 38 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord(s) acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant N.K.G. acknowledged service of the Proceeding Package and are duly served in accordance with the Act. Although Tenant C.B.A. denies receiving the Proceeding Package from the Landlord, he does confirm receiving it from N.K.G. on July 30, 2024, therefore I find C.B.A. sufficiently served under section 71 of the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to Tenant N.K.G. in accordance with section 88 of the Act.

However, I find that the Landlord's evidence was not served to Tenant C.B.A. in accordance with section 88 of the Act. The Landlord affirms receiving a forwarding address from N.K.G. but not C.B.A. who continued to stay in the rental unit after N.K.G. moved out. C.B.A. denies receiving evidence from the Landlord. Both parties agree that C.B.A. never provided a forwarding address to the Landlord. The Landlord confirms that C.B.A. remained in the rental unit after N.K.G. moved out. They further confirm only sending evidence to N.K.G.'s forwarding address. Therefore, the Landlord's evidence will not be considered.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent?

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the landlord entitled to a Monetary Order for compensation for damage or loss under the Act?

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested? If not, is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

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Facts and Analysis

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Both parties agree that rent was \$1250.00 due on the first day of each month, and that there is a security deposit of \$1250.00.

Is the Landlord entitled to a Monetary Order for unpaid rent?

Both parties agree that N.K.G. moved out of the rental unit on June 10, 2024, and that C.B.A. remained in the rental unit until July 9, 2024.

Both parties agree that Tenants did not receive a Notice to End Tenancy from the Landlord, nor did the Tenant provide the Landlord with a Notice to End Tenancy to the Landlord that complies with section 52 of the Act.

N.K.G. affirms having a telephone conversation with the Landlord on May 24, 2024, in which she obtained the Landlord's permission to vacate the rental unit on July 31, 2024. The Landlord denies having this conversation.

The Tenant provided screen shots of text messages from a conversation with the Landlord on June 10, 2024. In it, N.K.G. states that she is almost done moving out and that she is not sure of C.B.A.'s plan but that she believed he was planning to stay. The Landlord replies that they have no written notice from the Tenants, and they will both be liable for any damages that occur as both of the Tenants' names are on the tenancy agreement.

The Tenants also referenced a text message from November 2023, in which the Landlord stated they could vacate the rental unit without giving any notice, and that fact that message still applies in July 2024. The Landlord denies this, stating that she had had problems with the Tenants in November 2023, and that the referenced text message was only intended to allow the Tenants to leave without notice during November 2023.

I find that, under the Act, it is unreasonable of the Tenants to believe the Landlord's text message from November 2023, allowed them to vacate the rental unit at any time without any obligations. I further find that the Tenants, per section 45 of the Act, still had the responsibility to provide the Landlord with a Notice to End Tenancy that met the requirements of section 52 of the Act; something that both parties agree that the Tenants failed to do.

Tenant C.B.A. affirms not paying rent for July 2024. Section 26 of the Act states, "a tenant must pay rent when it is due under the tenancy agreement". As the rent was due on July 1, 2024, I find the Tenants are liable for paying rent for July 2024.

Section 44(1)(d) of the Act states that if the tenant(s) vacate or abandon the rental unit the tenancy ends. Therefore, as I found the Tenant liable for July 2024 rent, the tenancy ended on July 31, 2024, after the Tenants vacated the rental unit.

I find that the landlord has established a claim for \$2500.00 unpaid rent for July 2024. Therefore, I find the landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act.

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

The Landlord requests \$175.00 spent on cutting grass and related yard maintenance done after the Tenants left. The Landlord read into testimony a receipt for said work. However, the Tenants provided a photograph of the yard, with cut grass, that the Landlord confirmed was representative of the yard's condition at the time of vacating the rental unit. Upon viewing the photograph and listening to both parties, I find that, although the grass was not cut to the standards of the Landlord, it was cut. Although Policy Guideline 1 does clarify that, in a single family dwelling as in this tenancy, cutting grass is the responsibility of the Tenant, it does not clarify the standards to which it should be cut.

Therefore, the Landlord's application for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act is dismissed without leave to reapply.

Is the landlord entitled to a Monetary Order for compensation for damage or loss under the Act?

The Landlord confirms requesting compensation for loss of July 2024 rent. As I already found the Landlord has established a claim for \$2500.00 unpaid rent for July 2024, this claim is now moot and is dismissed without leave to reapply.

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary award requested? If not, is the Tenant entitled to a Monetary Order for the return of all or a portion of their security deposit?

As I found that the landlord has established a claim for \$2500.00 in unpaid rent for July 2024, they are entitled to retain the full amount of the Tenant's \$1250.00 security deposit.

Is the Landlord entitled to recover the filing fee for this application from the Tennant?

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Is the Tennant entitled to recover the filing fee for this application from the Landlord?

As the Tenant was not successful in this application, the Tenant's application for authorization to recover the filing fee for this application from the Landlord under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$1350.00** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order for unpaid rent under sections 67 of the Act	\$2500.00
authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act	-\$1250.00
authorization to recover the filing fee for this application from the Tenant under section 72 of the Act	\$100.00
Total Amount	\$1350.00

The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(s) 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 Act.

Dated: October 7, 2024

Residential Tenancy Branch