



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:44 a.m. in order to enable her to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that the caretaker for this rental property handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on September 7, 2012. The landlord testified that he sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on September 19, 2012. He provided the Canada Post Tracking Number to confirm this registered mailing. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent, losses or damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on January 15, 2012. Monthly rent was set at \$850.00, payable in advance on the first of each month, plus heat and hydro. The landlord continues to hold the tenant's \$425.00 security deposit paid on December 23, 2011.

The landlord testified that the tenant vacated the rental unit by September 30, 2012, without leaving any forwarding address. The landlord has obtained vacant possession of the rental unit.

The landlord applied for a monetary award of \$950.00, which included non-payment of rent for September 2012, a \$25.00 late fee and recovery of the landlord's filing fee for this application. Although the landlord also submitted a Monetary Order Worksheet identifying a claim for \$1,803.77, the landlord did not amend the application for dispute resolution, nor did the landlord include in the Details of the Dispute in the application for dispute resolution the items listed in the Monetary Order Worksheet. At the hearing, the landlord confirmed that he had not submitted receipts for repairs to the interior and exterior door of this rental unit. His Monetary Order Worksheet provided only estimates of \$366.90 and \$411.87 for these two sets of repairs that had not yet been conducted when the application for dispute resolution was submitted.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I find that there is undisputed evidence that the tenant failed to pay \$850.00 in rent for September 2012 and the \$25.00 late fee for September 2012. I issue a monetary award in the landlord's favour for these two amounts. Although the landlord may have incurred additional losses arising out of this tenancy, receipts for these losses were not submitted and the amount claimed by the landlord in the application for dispute resolution limited the landlord's entitlement to a monetary award to \$950.00.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee for this application from the tenant.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the late fee for September 2012, the filing fee for this application, and to retain the tenant's security deposit:

Item	Amount
Unpaid September 2012 Rent	\$850.00
Late Fee September 2012	25.00
Less Security Deposit	-425.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$500.00

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: December 10, 2012

Residential Tenancy Branch