



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S

Introduction

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

- a monetary order for unpaid rent and for damage to the unit pursuant to section 67; and
- 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.

The tenant did not participate in the conference call hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that on February 8, 2018 he forwarded the landlord's application for dispute resolution and supporting documents via registered mail to the tenant. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application and supporting documents on February 13, 2018, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and for damage to the unit?

Is the landlord authorized to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on July 1, 2017 on a fixed term until June 30, 2018. Rent in the amount of

\$1,095.00 was payable on the 15th of each month. The tenant remitted a security and pet deposit in the total amount of \$1,095.00 at the start of the tenancy, which the landlord still retains in trust. The tenant vacated the rental unit on January 28, 2018.

In the landlord's application, the landlord seeks compensation in the amount of \$1,709.00, including the following;

Item	Amount
January 15 - January 31, 2018 Rent	\$600.44
Cleaning supplies	\$10.00
Professional Cleaning	\$154.00
Car rental	\$283.22
Fuel for car rental	\$30.00
Airline flight	\$501.11
Airline flight extension	\$130.20

Upon review of the landlord's claim, I note the above does not equate to \$1,709.00, but rather totals \$1,708.97. In accordance with section 64(3) of the *Act*, I amend the landlord's application to reflect the amount claimed to \$1,708.97.

The landlord is also seeking to recover the \$100.00 filing fee for this application from the tenant.

Analysis

Section 26 of the *Act* requires the tenant to pay rent when it is due under the tenancy agreement, which is the 15th day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* (the "*Regulation*") or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$1,095.00. I find the landlord provided undisputed evidence that the tenant failed to pay full rent from January 15 to January 31, 2018. Therefore, I find that the landlord is entitled to \$600.44 in rent ($\$1,095.00/31 = \35.32×17 days).

Under section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the applicant must

satisfy the test prescribed by Section 7 of the *Act*. The applicant must prove a loss actually exists and prove the loss happened solely because of the actions of the respondent in violation to the *Act*. The applicant must also verify the loss with receipts and the applicant must show how they mitigated or what reasonable efforts they made to minimize the claimed loss.

Based on the undisputed testimony of the landlord, the written assessment by the professional cleaner and the invoices before me, I find the landlord is entitled to recover cleaning costs in the total amount of \$164.00 (\$10.00 + \$154.00).

The remainder of the landlord's monetary claim are not recoverable under the *Act*. Time and costs incurred traveling to the rental unit are a cost of doing business as a landlord. For this reason, I dismiss the remainder of the landlord's monetary claim.

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee for a total award of \$864.44.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$864.44 of the \$1,095.00 security and pet deposits in full satisfaction of the monetary award. The tenant is entitled to the remaining \$230.56 security and pet deposit balance.

Conclusion

The landlord is entitled to \$864.44. I order the landlord to retain \$864.44 from the security and pet deposits in full compensation of this amount. The tenant is entitled to the return of the balance of the security and pet deposits. I therefore grant the tenant a monetary order for the balance of the deposits, in the amount of \$230.56.

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: September 07, 2018

Residential Tenancy Branch