



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNRL-S

Introduction

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

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the security deposit pursuant to section 38; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct information. The landlord appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served their application for dispute resolution and evidence on the tenant by registered mail sent on or about April 26, 2019. The landlord provided a valid Canada Post tracking number as evidence of service. The landlord testified that in addition to the registered mail they sent the tenant the hearing materials via email and text message. Based on the evidence I find that the tenant is deemed served with the landlord's materials on May 1, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act* and in any event has been sufficiently served in accordance with section 71 of the *Act* on that date.

At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that the total amount of the rental arrear has been recalculated and that as of the date of the hearing the total arrear is \$1,050.00. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure as additional rent becoming due and owing is reasonably foreseeable and does not prejudice the respondent, I amend the landlord's Application to increase the monetary claim from \$610.00 to \$1,310.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the security deposit for this tenancy?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

This tenancy began in August 2018. The monthly rent was \$700.00 payable on the first of each month. A security deposit of \$350.00 was collected from the tenant and is still held by the landlord.

The landlord testified that the tenant failed to pay the full rent for the months of March and April 2019 and that there is a rental arrear of \$1,050.00 as at the date of the hearing.

The tenant vacated the rental unit at the end of April 2019. The tenant did not participate in a move-out inspection report despite being provided two opportunities by the landlord. The landlord submitted into evidence a copy of the Final Notice of Opportunity to Schedule a Condition Inspection. The landlord testified that the rental unit was in a state of disarray after the tenant vacated and they incurred costs for cleaning of the suite. The landlord submitted into evidence a receipt from a cleaning service charging \$260.00 for the suite cleaning.

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. I accept the evidence of the landlord that the tenant failed to pay the rent in the amount of \$700.00 as required under the tenancy agreement. I accept the evidence that there is an arrear of \$1,050.00 as at the date of the hearing. Accordingly, I issue a monetary award in the landlord's favour in that amount.

I accept the evidence of the landlord that the rental unit required cleaning and work after the tenant vacated. I find that the invoice submitted into evidence details reasonable costs of cleaning and is sufficient evidence that the condition of the suite was more than the state of wear and tear that would reasonably be expected after occupancy. As I find that the landlord has established on a balance of probabilities that there was a loss of \$260.00 for cleaning due to the actions of the tenant, I find that the landlord is entitled to a monetary award in that amount.

As the landlord was successful in their application they are entitled to recover the filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

The landlord is issued a monetary award in the amount of \$1,060.00 on the following terms:

Item	Amount
Unpaid Rent for Tenancy	\$1,050.00
Cleaning Costs	\$260.00
Filing Fee	\$100.00
Less Security Deposit	-\$350.00
TOTAL	\$1,060.00

The landlord is provided with the Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with the Orders, the 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*.

Dated: August 2, 2019

Residential Tenancy Branch