



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL FFL

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; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on February 19, 2021. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on February 24, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

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

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in November 2019. The monthly rent is \$1,800.00 payable on the first of each month. The rental unit is a suite in a multi-unit strata managed building.

On November 18 and November 20, 2020 in response to reports of water ingress into the suite below the rental unit the strata corporation retained plumbers to attend at the rental building and determine the source of the leakage. The plumbers determined that the leaks were originating in the rental unit due to spillage from the bathtub. A report from the plumbers was submitted into evidence. The report states in the relevant portions:

Accessed [rental unit] above and tested all fixtures, again unable to recreate leak. Inspected bathroom baseboards, found them swollen and water logged as well as water currently underneath same. Occupant of [rental unit] advised kids were bathed earlier in the day. Suspect spillage

Based on the findings of the plumber the rental unit was determined to be source of the water issues and the strata corporation subsequently charged the landlord with the cost of the plumber attending at the site in the amount of \$760.20. The landlord now seeks a monetary award from the tenant in that amount.

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 am satisfied with the evidence of the landlord that water ingress into the suite below was caused by the tenant's activities in the rental unit. I find the report from the plumber based on their inspection and assessment to be sufficient to establish on a balance of

probabilities that the cause of the water leaks is the tenant. I am satisfied that as a result of the findings the landlord was charged an amount of \$760.20 by the strata corporation for the plumber's time to attend at the rental suite. I therefore find the landlord has established their monetary claim and issue an order in the amount of \$760.20 as against the tenant accordingly.

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

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$860.20 allowing for the recovery of the filing fee and the losses incurred to the strata corporation. The tenant must be served with this Order as soon as possible. Should the tenant 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*.

Dated: June 8, 2021

Residential Tenancy Branch