



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FFL

Introduction

The Landlord filed an Application for Dispute Resolution on October 6, 2021 seeking compensation for monetary loss or other money owed. Additionally, they applied for the cost of the hearing filing fee.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing. The Tenant confirmed they received the notice of the hearing and the Landlord's prepared evidence. The Landlord did not receive evidence from the Tenant; however, they confirmed the documents submitted by the Tenant were within their knowledge as they deal with a prior hearing between these parties. On this basis, the hearing proceeded.

Issues to be Decided

Is the Landlord entitled to compensation for unpaid rent, and/or other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord submitted a copy of the Residential Lease Agreement that both parties signed alternately on June 29 and 30, 2019. The agreement specifically sets out that "The Tenant agrees to pay for all other utility charges and fees for the Premises during

the term of the Lease”, indicating that the Landlord did not agree to pay any services listed in the agreement.

The tenancy ended on March 15, 2021. The subject of the return of the security deposit was the subject of another dispute resolution hearing, with the amount of the security deposit, and the pet damage deposit, not already returned to the Tenant paid by the Landlord by money order.

The Landlord filed this Application on October 6, 2021 for specific amounts they feel are owing by the Tenant for replacements costs of items to them, as well as utility amounts not paid. These are:

#	Items	\$ claim
1	BC Hydro utility	435
2	water utility	42
3	lost remotes for garage and gate	166
10	rekey exterior locks – non-returned keys	257
	Total	900

The Landlord presented the utility bills associated with the claimed costs. The Tenant acknowledged their portion normally paid was 75% of the total bill provided to the Landlord on a regular basis. These were amounts held over into the period remaining at the end of the tenancy when the Tenant still resided in the rental unit. In their evidence the Landlord provided copies of each invoice.

The Landlord presented the paid invoice showing the purchase of two remotes not returned by the Tenant at the end of the tenancy. The Tenant acknowledged they did not return these at the end of the tenancy, specifying that one remote was for the garage door and the other for the gate.

The Tenant also acknowledged not returning the keys to the rental unit to the Landlord at the end of the tenancy.

In the hearing the Landlord provided that they paid the security deposit and pet damage deposit amounts to the Tenant as a result of the prior hearing. For each item claimed by the Landlord, the Tenant responded to say the matter of damages or other money claimed by the Landlord was the subject of the prior hearing and this precludes the Landlord from making their claim here. According to the Tenant, the Landlord here is far behind the timeline to make any claim for money owed. In their evidence, they

provided a copy of the prior arbitrator decision regarding the Tenant's claim for the return of the deposits.

Analysis

The subject of the Landlord's claim for money owed is separate from the Tenant's right to the return of the security deposit. The Landlord did not make a claim against the security deposit here, and that matter was fully resolved in a prior hearing process. With reference to the *Act*, there is nothing precluding the Landlord from making their claim here, which was within the timeline set out in s. 60(1), that of 2 years after the end of the tenancy. The previous dispute was of a different nature, with a different applicable limitation period; therefore, I proceed to evaluate the Landlord's claim below.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

On each item, I find the Tenant conceded on the fact that a damage or loss to the Landlord exists. The Tenant was obligated to pay utility amounts as set out in the contract; by default, the arrangement in place for quite some time was the 75-25 split between the upper and lower rental units. In line with this, I so order the Tenant shall pay the utility costs to the Landlord.

I find the Tenant acknowledged they did not return the two remotes for garage and gate openers claimed by the Landlord here. I find the Landlord made a reasonable purchase for their replacement, with a reasonable cost thereof. I so order the Tenant to pay the remote replacement costs as claimed to the Landlord.

Also, I find the Tenant acknowledged they did not return the keys as required at the end of the tenancy. There is nothing unreasonable to the Landlord replacing the keys for their own locks at the rental unit. In line with this, I so order the Tenant to pay the key replacement costs as claimed by the Landlord.

Because the Landlord was successful in this Application, I find they are eligible for reimbursement of the Application filing fee.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$1,000 for compensation as set out above. The Landlord is provided with this Order in the above terms and must serve it to the Tenant as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file it in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: April 12, 2022

Residential Tenancy Branch