



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNRL-S, MNDL-S, MNDCL-S, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
- A monetary order for damages caused by the tenant, their guests to the unit, site or property and authorization to withhold a security deposit pursuant to sections 67 and 38;
- An order to be compensated for a monetary loss or other money owed and authorization to withhold a security deposit pursuant to sections 67 and 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 2:15 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing and testified that he personally served the tenant with a copy of the Notice of Dispute Resolution Proceedings package at the tenant’s workplace on July 23, 2022. The landlord provided a photograph of the tenant holding the Notice of Dispute Resolution Proceedings was provided as evidence. I find the tenant duly served with the Notice of Dispute Resolution Proceedings package on July 23, 2022 in accordance with sections 89 and 90 of the Act.

This hearing proceeded in the absence of the tenant in accordance with Rule 7.3 of the Residential Tenancy Branch Rules of Procedure.

Issue(s) to be Decided

Is the landlord entitled to the compensation he seeks?

Can the landlord retain the tenant's security deposit?

Can the landlord recover the filing fee?

Background, Evidence and Analysis

The tenant did not attend this hearing to dispute any of the testimony provided by the landlord or any of the documents the landlord referred to.

A copy of the tenancy agreement was provided as evidence. The named tenant neglected to sign the tenancy agreement however he signed the addendum attached to it. The co-tenants named on the tenancy agreement are the tenant's (former) wife and the (former) wife's adult son. The tenant's former wife also signed the condition inspection report at the commencement of the tenancy. The tenancy began on June 1, 2020 with rent set at \$1,800.00 per month, payable on the first day of each month. A security deposit of \$900.00 was collected and the landlord continues to hold it.

The landlord gave the following undisputed testimony. Although there are 3 tenants named on the tenancy agreement, the landlord is only seeking compensation from the tenant, NK.

- Unpaid arrears in rent

Payments of \$1,100.00 were made by the husband-and-wife tenants and the son's \$700.00 portion of the rent was paid by the Ministry of Social Services. Payments were being made monthly up until the month of April, 2021, although SB, the adult child of the tenant's spouse was temporarily living in a care home. The ministry didn't pay SB's \$700.00 payment of rent when he returned from the care home in mid-May, 2021. The tenants promised to pay the landlord for the outstanding \$700.00 shortfall in rent or told the landlord to pursue the ministry for it. The tenant never ended up paying the shortfall and the tenant is in arrears of \$700.00 for May's rent. June and July 2021 were fully paid for, and the tenancy ended on July 31, 2021.

- Damaged walls

The landlord testified that SB is bi-polar and on November 12, 2020, he had an angry outburst, punching 10 holes in the walls. The landlord provided photos of the walls as evidence. The tenants tried to claim the damage on their tenant insurance, however their insurer wouldn't cover it because the damage was intentional. The landlord took pity on the tenants and did the work himself. The landlord provided copies of the

receipts he paid for drywall supplies and his labour totalling \$665.00. The landlord testified that the tenants agreed to make payments towards the damaged walls at \$50.00 per month and he received two \$50.00 payments, reducing the amount to \$565.00.

- dishwasher

In May 2021, the tenant notified the landlord that there was an error message showing on the dishwasher. When the landlord came to investigate, he found the filter was not properly in place and was dirty. The co-tenant, MHK acknowledged that she had previously broken a wine glass in the dishwasher and thought she had removed all the broken glass. Because the filter was not properly affixed, the glass entered the pump and so did other debris from the dishwasher. The pump had to be replaced. The landlord seeks the cost of the new pump, \$74.08 and a service call from the appliance repairer at \$189.00.

- Cleaning supplies and labour

The landlord testified that the tenant and the co-tenant were in the midst of separating at the end of the tenancy. The co-tenant MHK broke the tenancy agreement and left both her son and the tenant behind, relocating to Alberta. The “needs cleaning” condition of the unit was noted throughout the July 31, 2021 condition inspection report which the co-tenant MHK agreed fairly represents the condition of the rental unit on move out. Also noted is a damaged window blind in bedroom #2 which the landlord seeks to replace at a cost of 88.38 + GST. The landlord provided invoices for the cleaning supplies used to clean the unit after the tenants vacated it and for the replacement blind. Also included is breakdown of the landlord’s claim for labour to clean the unit and fix the damaged bedroom walls.

- Bedbug infestation

In the first week of January, 2021, the tenant advised the landlord that there were problems with out of control biting insects. He believed the bugs were fleas from the previous tenants. The landlord testified that the unit had been vacant since March 12, 2020 and these tenants moved in on June 1, 2020 some 2 and a half months later. The co-tenant MHK acknowledged to the landlord that she had purchased a second-hand mattress in September 2020 and nobody regularly slept on it until around Christmas of 2020 when her son slept on it. MHK was aware of the insects but believed she could eliminate them by washing the sheets. After getting quotes from multiple pest control companies, the landlord hired one at a cost of \$3,045.00. Because the tenant acknowledged that they brought the bedbugs into the unit with the second-hand mattress, the tenant agreed to pay for the treatment by installments. The tenant made 3

payments of \$300.00 on January 16, 2021, \$300.00 on February 28, 2021 and \$200.00 on April 10, 2021. The remaining \$2,245.00 was never repaid.

Analysis

Section 7 of the Act states: If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

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.

Rule 6.6 of the Residential Tenancy Rules of Procedure indicate the onus to prove their case is on the person making the claim and that the standard of proof is on a balance of probabilities.

Residential Tenancy Policy Guideline PG-16 [Compensation for Damage or Loss] states at Part C:

In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

• [the 4-point test]

The tenant did not attend this hearing to dispute any of the evidence or testimony provided by the landlord. Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant in this application was a co-tenant with his (former) wife, MHK and her adult son, SB. Residential Tenancy Policy Guideline 13 [Rights and Responsibilities of Co-tenants] states that co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement. Generally, co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. "Jointly and severally" means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

- Unpaid rent for May 2021

I am satisfied the tenant was obligated to pay rent in the amount of \$1,800.00 per month for the month of May, 2021 and only paid \$1,100.00 of it, leaving arrears in the amount of \$700.00. Section 26 of the Act states a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent. I find the tenant had no right to deduct any portion of the rent and the landlord is entitled to compensation in the amount of **\$700.00** for unpaid rent.

- Damaged walls

I am satisfied the tenant, or a co-tenant SB, damaged the walls by punching them and didn't repair the damage as required under section 32(3) of the Act. I find the tenant agreed to the cost of \$665.00 to pay for the repairs and stopped making payments after the first \$100.00 was paid and that the landlord is entitled to the remaining \$565.00 as sought. The landlord's monetary order is increased by \$565.00.

- Dishwasher

I find the pump to the dishwasher in the rental unit was damaged due to the actions or neglect of the tenants during the tenancy. I find the cost of the replacement pump and the service call by the repairer to be reasonable and the landlord is awarded \$263.08.

- Cleaning supplies and labour

The co-tenant MHK signed the condition inspection report indicating she agreed with the "needs cleaning" condition of the unit on the last day of the tenancy. Based on the evidence provided, I find the landlord has proven the unit was not left reasonably clean as required under section 37 of the Act and that the landlord is entitled to be compensated for the full amount claimed, \$1,157.37.

- Bedbug infestation

Section 32(2) requires that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The landlord provided sufficient evidence to satisfy me the tenants brought bedbugs into the rental unit and caused the infestation that preceded the expense of \$3,045.00. I have reviewed the email exchanges between the parties and I am satisfied the tenants acknowledged the cost and were paying the landlord back for the treatment by installments. The landlord testified that they have paid \$800.00 towards the expense and another \$2,245.00 remains. The landlord is awarded an additional \$2,245.00.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application. In accordance with the offsetting

provision of section 72 of the Act, the landlord may retain the tenant's security deposit in the amount of \$900.00.

Item	amount
May 2021 arrears	\$700.00
Damaged walls	\$565.00
Dishwasher	\$263.08
Cleaning supplies and labour	\$1,157.37
Bedbug infestation	\$2,245.00
Filing fee	\$100.00
Less security deposit	(\$900.00)
Total	\$4130.45

Conclusion

I award the landlord a monetary order in the amount of \$4,130.45.

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: April 03, 2023

Residential Tenancy Branch