

DECISION

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that Tenant M.Y. was served on May 16, 2023, by attaching the Proceeding Package on the door of the rental unit in accordance with section 89(2) of the Act.

Service of Evidence

Based on the submissions before me, I find that the landlord's evidence was served to the tenant in accordance with section 88 of the Act.

No evidence was received by the Residential Tenancy Branch from the tenant.

Issues to be Decided

Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on March 1, 2023, with a monthly rent of \$1,475.00, due on first day of the month, with a security deposit in the amount of \$737.50.

On May 01, 2023, the tenant moved out and provided the landlord with a forwarding address and an email address, on May 08, 2023. The landlord made this application in a timely manner on May 09, 2023.

The landlord filed evidence to support her testimony that the tenant left her unwanted belongings inside the rental unit and failed to leave the unit in a clean condition. The landlord filed photographs and invoices into evidence.

Analysis

Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

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. In this case, to prove a loss, the landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Based on the evidence before me, the testimony of the landlord, and on a balance of probabilities, I find that the landlord has established a claim for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

Section 67 of the Act states 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.

Therefore, I find the landlord is entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act, in the amount of \$570.00.

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

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a

landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it. As the forwarding address was provided on May 08, 2023, and the landlord made their application on May 09, 2023, I find that the landlord did make their application within 15 days of the tenancy ending/the forwarding address being provided.

Is the landlord entitled to recover the filing fee for this application from the tenant?

As the landlord was successful in their application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Under section 72 of the Act, I allow the landlord to retain \$670.00 from the tenant's security deposit, in full satisfaction of the monetary award. The landlord must return the balance of the deposit in the amount of \$67.50 plus interest of \$9.18 for a total of \$76.68, to the tenant.

Conclusion

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: October 19, 2023

Residential Tenancy Branch