



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, MND, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession for the rental unit due to unpaid rent, a monetary order for damage to the rental unit and unpaid rent, and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and no party raised any issue regarding service of the evidence or the application.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue-The tenant has vacated the rental unit and as a result, I have excluded the landlord's request for an order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

I was provided undisputed evidence that the tenancy began on October 1, 2010, ended at the end of September 2012, and monthly rent was \$400.00. The landlord said the tenant did not pay a security deposit.

The landlord's monetary claim is in the amount of \$1518.00, comprised of non payment of rent for September 2012, in the amount of \$270.00, carpet cleaning for \$136.00, removal of items left in the rental unit for \$110.00, cleaning of the rental unit for \$100.00, and replacing the living room floor for \$740.00.

The landlord's relevant evidence included emails to the tenant showing various receipts of payments for different items, with a running total, photos of the condition of the rental unit, a receipt for a carpet cleaning machine, a receipt for the original installation of carpet and an estimated replacement cost, a condition inspection report, and a tenancy agreement.

In support of his application, the landlord said that the tenant failed to pay \$270.00 of the monthly rent due for September 2012, which prompted the landlord to issue the tenant a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord said that the tenant failed to pay this amount and vacated the rental unit in September 2012, without notice to the landlord.

The landlord said that he only found out that the tenant vacated when a neighbour of the tenant informed him.

The tenant's agent did not deny this allegation.

As to the carpet cleaning, the landlord said the tenant failed to clean the carpet, the carpet was left dirty, and as a result, the landlord rented a carpet cleaning machine to so clean the carpet.

The landlord provided a receipt for \$61.58 for the carpet cleaning machine, and contended that the balance was for his labour.

As to the removal of the tenant's items from the rental unit, the landlord submitted that the tenant left personal property and debris in the rental unit, requiring the landlord to haul the items to the landfill.

The landlord provided a receipt for \$31.25 for the landfill costs and contended that the balance claimed was for his labour and costs of transport.

The tenant's agent had no comment.

As to the cleaning of the suite, the landlord contended he was entitled to this amount as it was a standard charge for that area, according to his research.

As to the claim for replacing the carpet, the landlord supplied an estimate, and said that he has not replaced the carpet until he has received money through the dispute resolution process as he could not afford it otherwise.

The tenant's agent had no comment.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

Unpaid rent-I find the landlord submitted sufficient, undisputed evidence that the tenant vacated the rental unit owing rent for September in the amount of \$270.00. I therefore approve his claim for \$270.00.

Carpet cleaning-I find the landlord submitted sufficient, undisputed evidence that the tenant failed to steam clean or shampoo the carpet at the end of the tenancy, as required under Residential Tenancy Branch Policy Guideline #1, and that the landlord incurred a cost for such cleaning.

As to the amount of compensation, it is clear that the landlord incurred an expense of \$61.58, as shown by the receipt for the carpet cleaning machine, but the landlord was unable to provide an explanation as to how he arrived at the figure of \$74.42 for his time, which is the balance after a deduction of \$61.58 from his claim of \$136.00.

I find a reasonable amount of compensation to the landlord for his time in cleaning the carpet to be \$25.00.

I therefore approve the landlord's claim in the partial amount of \$86.58, for cost of the carpet cleaning machine for \$61.58 and \$25.00 for labour.

Removal of items-The landlord provided a receipt for a landfill costs, in the amount of \$31.25, and stated that the balance of his claim was for his time and costs to travel.

Without further proof of the exact amount of time involved, an explanation as to how the value of his time was calculated, or proof of petrol usage, I decline to award the landlord any costs over the proven amount of \$31.25. I approve the landlord's claim for removal of items in the amount of \$31.25.

Cleaning of rental unit-The landlord claimed \$100.00 for his time in cleaning the rental unit. I find the landlord's photographic evidence of the state of the rental unit at the end of the tenancy to be conclusive proof that the tenant failed to leave the rental unit in a clean and sanitary state, and damaged which went beyond reasonable wear and tear. I find the landlord's claim of \$100.00 to clean the rental unit to be fair and reasonable considering the state of the rental unit and I approve his claim for \$100.00.

Replacing damaged carpet-The landlord has yet to incur a monetary loss as of the day of the hearing, and I therefore find that he has not met the first step of his burden of proof. Due to this, I decline to award the landlord estimated costs of carpet replacement and dismiss his claim for \$740.00.

Filing fee-I find the landlord's application contained merit and I award him recovery of the filing fee of \$50.00.

Due to the above, I find the landlord has established a total monetary claim in the amount of \$537.83, comprised of unpaid rent for \$270.00, carpet cleaning for \$86.58, removal of items for \$31.25, cleaning for \$100.00, and recovery of the filing fee of \$50.00.

Conclusion

I therefore grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$537.83, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. Costs of enforcement may be recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: April 05, 2013

Residential Tenancy Branch

