



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Domus Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNR, MND, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss, alleged damage to the rental unit, and unpaid rent, for authority to retain the tenants' security deposit, and for recovery of the filing fee.

The landlord's agent (hereafter "landlord") attended the telephone conference call hearing; the tenants did not attend.

The landlord was sworn into the hearing and testified that each tenant was served with their Application for Dispute Resolution and Notice of Hearing by Canada Post's registered mail service on or about August 21, 2013. The landlord supplied copies of the registered mail envelopes, showing that the mail was "unclaimed," and of the receipts for the registered mail showing the tracking number.

In response to my question, the landlord testified that the registered mail was sent to the forwarding address supplied by the tenants.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to retain the tenants' security deposit, further monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord provided evidence that this tenancy began on February 1, 2012, ended on August 17, 2013 when the tenants vacated the rental unit, and the tenants' monthly rent at the end of the tenancy was \$820. The tenants paid a security deposit of \$400 at the beginning of the tenancy.

The landlord's monetary claim is as follows:

Outstanding rent and late fee	\$480
Drapes cleaning	\$77.50
Suite cleaning	\$180
Cleaning materials	\$35.21
TOTAL	\$772.71

The landlord stated that they were no longer seeking expenses for carpet cleaning or light bulb replacements, which was also listed in their application.

The landlord testified that the tenants were each served with their documentary evidence on November 15, 2013, via the express post service of Canada Post.

The landlord's additional relevant documentary evidence included photos of the condition of the rental unit at the end of the tenancy, the tenancy agreement, a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a notice of a rent increase, copies of a notice for a final opportunity to inspect the rental unit at the end of the tenancy, and a condition inspection report.

The landlord's relevant oral evidence included:

August rent; late fee-The landlord stated the tenants failed to pay their rent for August, which caused the landlord to issue the tenants a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"). The tenants vacated the rental unit on August 17, without paying the full amount of rent or the late fee for that month. Although the landlord's application stated that the amount of unpaid rent and late fee was in the

amount of \$480, the landlord's documentary evidence shows the amount of \$464.67 for 17 days of prorated rent for August, a parking fee of \$10 each for August and September, and a late fee of \$25.

Drapes cleaning-The landlord stated that the tenants were required by the tenancy agreement to have the drapes cleaned at the end of the tenancy, but failed to do so. The landlord stated that the estimated amount for this expense was listed on the condition inspection report as \$110, but that the actual amount was \$77.50.

Cleaning-The landlord gave evidence, orally and in photographic form, that the rental unit required extensive cleaning after the tenants vacated the rental unit and that the landlord was required to purchase cleaning materials for the cleaning.

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, which falls in sections 7 and 67, 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.

August prorated rent; parking fee; late fee- Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, the undisputed evidence of the landlord shows that the tenants were obligated to pay rent and a parking fee on August 1, 2013, according to the terms of the tenancy agreement and failed to do so.

I therefore find the landlord is entitled to a monetary award of \$464.67 for unpaid, prorated rent for August, \$10 for the August parking fee and a late fee of \$25, for a total of \$499.67. I have not awarded the landlord a parking fee for September.

Cleaning- I find the landlord submitted sufficient undisputed evidence that the rental unit required cleaning and that the landlord purchased cleaning products, and of their loss as a result of the tenants' failure to leave the rental unit reasonably clean. I therefore find the landlord is entitled to a monetary award of \$180 for suite cleaning and \$35.21 for cleaning materials, for a total of \$215.21.

Drapes cleaning- I find the landlord submitted sufficient undisputed evidence that the tenants were required through their tenancy agreement to have the drapes professionally cleaned at the end of the tenancy and that they failed to do so. I therefore find the landlord is entitled to a monetary award of \$77.50 for replacing the lights and \$352.06 for drapes cleaning.

I grant the landlord recovery of the filing fee due to their successful application.

Due to the above, I grant the landlord's application and find they are entitled to a total monetary award of \$842.38, comprised of prorated August rent for \$464.67, a parking fee of \$10, a late fee of \$25, suite cleaning of \$180, cleaning materials for \$35.21, drapes cleaning of \$77.50, and the filing fee of \$50.

Conclusion

I have granted the landlord's application for dispute resolution and awarded them monetary compensation in the amount of \$842.38.

At the landlord's request, I allow them to retain the tenants' security deposit of \$400, in partial satisfaction of their monetary award.

I therefore grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$442.38, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement may be recovered from the tenants.

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 respondents.

Dated: December 06, 2013

Residential Tenancy Branch

