



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding QUADRA PACIFIC PROPERTIES CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, for compensation under the Act and the tenancy agreement, for damage and cleaning of the rental unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that they served each of the Tenants with the Notice of Hearing and Application documents by registered mail, sent on February 13, 2014. I note that the Landlord provided a copy of tracking information from Canada Post indicating mail had been accepted by one of the Tenants. Under the Act the Tenants are deemed served five days after mailing. I find both the Tenants have been duly served under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenants?

Background and Evidence

This tenancy began on November 7, 2013, with the parties entering into a written tenancy agreement. The rent was pro-rated for November. The monthly rent of \$915.00 was due on the first day of each month. The Tenants paid a security deposit of 457.50 in November of 2013.

The Agent testified that on December 27, 2013, the Tenants gave the Landlord a Notice to End Tenancy effective for January 31, 2014. The Agent further testified that the Tenants did not pay

the rent for January 2014, and vacated the rental unit sometime in January. The Landlord posted a notice of final opportunity to perform the condition inspection report on January 15, 2014. The Tenants did not attend at the final condition inspection report on January 31, 2014.

The Tenants vacated the property, however, the Landlord has incurred costs to clean and repair the rental unit due to the condition it was left in by the Tenants.

The Landlord claims \$30.00 for 1 ½ hours of bagging up and preparing items left behind by the Tenants for removal and disposal. This included a coffee table, six bags of trash, a chesterfield, two lawn chairs, a mattress and a bookshelf. To removal and dispose of these items the Landlord is claiming \$105.00.

The Landlord also had to pay someone to clean a heavily soiled bathroom, the kitchen, refrigerator, stove, cupboards, windows and drapes, and the floors. The Landlord claims for six hours of cleaning at \$20.00 per hour, in the amount of \$120.00.

The Landlord further claims the Tenants did not clean the carpets before the left, and claims \$99.75 for this.

In support of the above the Landlord has provided the tenancy agreement, condition inspection reports, a notice of final opportunity to attend the condition inspection report, invoices for costs incurred and the particulars of the work performed.

Therefore, the Landlord claims as follows:

a.	Balance of rent owed for December 2013	5.00
b.	Rent owed for January 2014	915.00
c.	Late rent charge for January	25.00
d.	Bag trash and prepare items for disposal	30.00
e.	Hauling and disposal	105.00
f.	Cleaning of rental unit	120.00
g.	Carpet cleaning	99.75
h.	Filing fee	50.00
	Total claimed	\$1,349.75

The Tenants provided no evidence for the dispute.

Analysis

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 sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Based on all of the above, the uncontradicted evidence and testimony, and on a balance of probabilities, I find as follows.

I find the Tenants breached section 37 of the *Act* when they did not clean the unit, or remove debris and trash, and this has caused losses to the Landlord. Furthermore, I find that the Tenants breached section 26 of the *Act* and the tenancy agreement with the Landlord when they failed to pay the January rent, and therefore, the Landlord has suffered a loss of rent for one month.

Section 7 of the *Act* states:

- (1) 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.
- (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

[Reproduced as written.]

I find the Landlord did what was reasonable and necessary to remediate the rental unit due to the breaches of the Act by the Tenants.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

[Reproduced as written.]

Based on all of the above, I find that the Landlord has established a total monetary claim of **\$1,345.75** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the Landlord retain the deposit of **\$457.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$892.25**.

This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenants breached the Act and the tenancy agreement by failing to pay rent when due, and by failing to return the rental unit to the Landlord in a vacant and reasonably clean state. The Tenants are order to pay the Landlord compensation for the amounts claimed. The Landlord may keep the security deposit in partial satisfaction of the claim and has a monetary order against the Tenants for \$892.25.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 17, 2014

Residential Tenancy Branch

