



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MND FF

Preliminary Issues

Upon review of the Landlord's application for dispute resolution the Landlord wrote the following, among other things, in the details of the dispute:

... Not all the tenant's possessions were removed from the unit. Living room and bedroom carpet was not vacuumed and not professionally cleaned as required. All surfaces had to be cleaned...

Based on the aforementioned, and in absence of a claim for damages to the rental unit, I find the Landlord had an oversight or made a clerical error in not selecting the box *for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement* when completing the application, as they clearly indicated their intention of seeking to recover the costs for cleaning and debris removal and not for costs to repair damage. Therefore, I amend the Landlord's application to include the request for *money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement*, pursuant to section 64(3)(c) of the Act.

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on September 4, 2014, to a Monetary Order for damage to the unit, site, or property; *money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement*; and, to recover the cost of the filing fee from the Tenant for this application.

The hearing was conducted via teleconference and was attended by the property manager and the resident manager. The Landlord's evidence was submitted by the property manager; therefore, for the remainder of this decision the property manager will be referred to as Landlord.

The Landlord provided documentary evidence that the Tenant was served notice of this application, the hearing and their evidence by registered mail on September 8, 2014. Canada Post tracking information was submitted in evidence. Based on the submissions of the Landlord, I find the Tenant was deemed served notice of this proceeding and the hearing documents on

September 13, 2014, five days after they were mailed, pursuant to sections 89 and 90 of the Residential Tenancy Act (Act). Therefore, I continued in absence of the Tenant.

Issue(s) to be Decided

Has the Landlord proven entitlement to monetary compensation?

Background and Evidence

The Landlord submitted evidence in support of their claim which included, among other things, copies of: the tenancy agreement; the move in and move out condition inspection report forms; several photographs of the rental unit which were taken on August 24, 2014; Tenant's notice to end tenancy; and the Vacating Residents: Cleaning Checklist.

The Landlord submitted that the Tenant entered into a fixed term tenancy that began on August 1, 2013 which switched to a month to month tenancy after July 31, 2014. Rent of \$1,350.00 was due on or before the first of each month and on August 1, 2013 the Tenant paid \$675.00 as the security deposit. On July 10, 2014, the Tenant gave notice to end the tenancy effective August 31, 2014. Both parties attended the move-in inspection and signed the condition inspection report form on August 4, 2013.

The Landlord testified that the Tenant informed the former resident manager that she had vacated the unit by August 23, 2014 and would advise him when she was finished cleaning up so they could conduct the inspection. On August 24, 2014 the Tenant contacted the Landlord and said she did not have time to conduct the inspection so she would be dropping off the keys. When she met with the resident manager to drop off the keys she was given one last opportunity to attend the inspection. The Landlord submitted that the Tenant refused to conduct the inspection because she had to catch a flight. She returned her keys and gave the Landlord her forwarding address on August 24, 2014.

The Landlord attended the rental unit on August 24, 2014, and conducted the move out inspection in absence of the Tenant. He took photographs and began the cleaning. The Landlord submitted that they are seeking \$630.0 for cleaning costs which is for 14 hours of cleaning at \$45.00 per hour. The Landlord pointed to the Vacating Residents: Cleaning Checklist that was provided in his evidence and argued that the Tenant was given this checklist to ensure she knew what cleaning was required. He noted that page two of the checklist indicates that general suite cleaning would be charged at a minimum of \$45.00 per hour.

Analysis

Upon consideration of the evidence before me, in the absence of any evidence from the Tenant who did not appear, despite being properly served with notice of this proceeding, I accept the

undisputed version of events as discussed by the Landlord and corroborated by their documentary evidence.

Section 7 of the Act provides as follows in respect to claims for monetary losses and for damages made herein:

7. Liability for not complying with this Act or a tenancy agreement

- 7(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.
- 7(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.

The party making the claim for damages must satisfy **each** component of the test below:

- 1. Proof the loss exists,
- 2. Proof the damage or loss occurred solely because of the actions or neglect of the Respondent in violation of the Act or an agreement
- 3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
- 4. Proof that the claimant followed section 7(2) of the Act and did whatever was reasonable to minimize the damage or loss.

Section 21 of the Regulations provides that In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear; and must return all keys to the Landlord.

Based on the aforementioned I find the Landlord provided sufficient documentary evidence to prove that the Tenant has breached section 37(2) of the Act, leaving the rental unit unclean at the end of the tenancy. That breach caused the Landlord to suffer a loss of \$630.00, which consists of 14 hours labor at \$45.00 per hour, to conduct the cleaning, as per the Vacating Residents: Cleaning Checklist. As per the foregoing I find the Landlord has met the burden of proof and I award them costs for cleaning in the amount of **\$630.00**.

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) *[starting proceedings]* or 79 (3) (b) *[application for review of director's decision]* by one party to a dispute resolution proceeding to another party or to the director.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$50.00** filing fee, pursuant to section 72(1) of the Act.

Monetary Order – I find that the Landlords are entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenants' security deposit plus interest as follows:

Cleaning	\$ 630.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$ 680.00
LESS: Security Deposit \$675.00 + Interest 0.00	<u>-675.00</u>
Offset amount due to the Landlord	<u>\$ 5.00</u>

Conclusion

The Landlords have been awarded a Monetary Order for **\$5.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court

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: March 27, 2015

Residential Tenancy Branch

