



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent and for damage to the unit pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent, (the landlord) attended the hearing by conference call and gave undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that both tenants were served with the notice of hearing package by Canada Post Registered Mail on July 29, 2015 and have submitted copies of the Canada Post Customer Receipt Tracking number as confirmation. The landlord gave undisputed affirmed testimony that an online search of the Canada Post Website shows that the tenant, B.T. signed in receipt of the package. The landlord clarified that the tenants forwarding address in writing was received by text message from the tenant, B.T. on July 23, 2015. The landlord clarified that the landlord's agent, (the resident manager) received the text from the tenant, B.T. notifying the landlord with both of the tenants' forwarding address. The landlord stated that 1 day prior to the hearing date the landlord's agent received a telephone call from the tenant, B.T. confirming the conference call hearing and that the tenant requested and received the call in details. I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenants have been properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act. The tenants are deemed to have received the notice of hearing packages and the

submitted documentary evidence 5 days later on August 3, 2015 as per section 90 of the Act.

During the hearing, the landlord withdrew the claim of \$216.00 for cleaning. As there is no prejudice to the tenants in this case, the landlord's monetary claim is amended lowering the \$741.00 claim to \$525.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the rental unit and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

This tenancy began on December 1, 2014 on a fixed term tenancy ending on June 30, 2015 as shown by the submitted copy of the signed tenancy agreement dated November 26, 2014. The monthly rent was \$900.00 payable on the 1st day of each month and a security deposit of \$450.00 was paid.

The landlord seeks an amended monetary claim of \$525.00 which consists of:

\$375.00	Garbage Removal
\$100.00	Door Replacement
\$75.00	Lock Replacement

The landlord stated that at the end of the tenancy the rental unit required cleaning, garbage disposal, the replacement of a damaged door and replacement of the lock as the tenant failed to return the keys.

The landlord relies upon:

- Photographs of the rental unit showing the accumulation of items and dirt.
- Photographs of a damaged door.
- A condition inspection report for the move-in completed by both parties on November 28, 2014.

The landlord stated that all of the work was performed in-house so that no invoices were generated, except for the garbage removal claim. The landlord clarified that an invoice was just received for the garbage removal for \$403.52. The landlord clarified that the

remaining items being claimed are based upon an estimate of “standard charges” for a door replacement and a change of the lock. The landlord stated that the “standard charges” are not posted and that the tenants have not been notified of them.

Analysis

Section 67 of the *Act* establishes 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. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed testimony of the landlord and find on a balance of probabilities that the landlord has established that the tenants left the rental unit dirty, left numerous garbage items, damaged a door and failed to return the keys to the rental unit. The landlord has not provided sufficient details of an actual monetary amount of the loss/damages. The landlord has failed to provide any evidence of invoices or proof of the “standard charges”. On this basis the landlord has failed to establish a claim for damages as claimed. However, the landlord has established that damage/loss occurred due to the actions or neglect of the tenants based upon the condition inspection report for the move-in completed by both parties on November 28, 2014. This is supported by the landlord’s photographic evidence in providing a means of comparing the rental unit before and after the tenancy began with the tenants. On this basis, I grant a nominal award of \$400.00.

As the landlord has been successful in the application for dispute, I order that the landlord is entitled to recovery of the \$50.00 filing fee.

The landlord is entitled to a total monetary claim of \$450.00.

The landlord applied to keep the tenant’s \$450.00 security deposit. I allow the landlord to retain the security deposit in satisfaction of the monetary award. No interest is payable over this period.

Conclusion

The landlord has established a monetary entitlement of \$450.00. The landlord is allowed to retain the \$450.00 security deposit in satisfaction of the claim.

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: December 08, 2015

Residential Tenancy Branch

