

# **Dispute Resolution Services**

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 975510 BC LTD and [tenant name suppressed to protect privacy]

# **DECISION**

<u>Dispute Codes</u> CNR, FF, LRE, MNDC, MNSD, SS

#### Introduction

This hearing dealt with an application by the tenants seeking an order to have a One Month's Notice to End Tenancy for ending the tenants' employment set aside, an order to have a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities set aside, a monetary order for compensation for damage or loss suffered under the Act, regulation or tenancy agreement, an order for the return of the security deposit, an order to suspend or set conditions on the landlords right to enter the rental unit, and an order to recover the filing fee for this hearing. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

# Preliminary Issue

The tenants advised that they moved out of the suite on November 21, 2015. The tenants advised that for today's hearing the only items they were pursuing were the return of the security deposit and the monetary order for compensation. Other than the monetary items stated, the balance of the tenants' application is dismissed. The landlord did not dispute this. The hearing proceeded and concluded on that basis.

#### <u>Issues to be Decided</u>

Are the tenants entitled to a monetary order as claimed?

Are the tenants entitled to the return of the security deposit?

Are the tenants entitled to the recovery of the filing fee?

### Background and Evidence

The tenants' testimony is as follows. The tenancy began on or about July 18, 2015 and ended on November 21, 2015. Rent in the amount of \$1600.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$800.00 and a fob remote deposit of \$100.00. The tenants stated that they entered into a contract with the landlord to renovate other units in the complex.

The tenants stated that the price to renovate the units were \$1750.00 per unit plus additional costs. The tenants stated that the landlord later informed them that in addition to the agreed costs of the renovation, the rent would be waived during the months of September, October, and November. The tenants stated that they had conducted \$4495.00 worth of work. The tenants stated that the landlord owes them an additional \$2895.00 plus the return of their deposits.

The landlords' testimony is as follows. The landlord stated that the there was never an agreement to waive the rent. The landlord stated that the tenants did not conduct the work as agreed and have left extensive damage to their unit. The landlord stated that the parties are scheduled for a hearing in February to address the unpaid rent and damages left behind. The landlord stated that they did not receive the tenants forwarding address until they were served with the Notice of Hearing package for today's hearing.

#### Analysis

I address the tenants claim and my findings as follows.

1. 2895.00 as compensation for work done.

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.

The tenants did not provide documentary evidence to support the amount as claimed. In fact, when the tenants attempted to explain how they came to the amount they were claiming; they were contradictory, confusing and unclear. Based on the lack of documentary evidence before me and the contradictory nature of their testimony I dismiss the tenants' claim of \$2895.00 for compensation for the work conducted.

# 2. Return of \$800.00 security deposit and \$100.0 fob remote deposit.

The tenants acknowledged that they did not provide their forwarding address to the landlord in writing prior to filing an application for this hearing. As the tenants failed to do this, the doubling provision under Section 38 of the Act is not available to them.

The landlord has not filed an application to retain the deposits, accordingly, I do find that they are entitled to the return of their security deposit and fob remote deposit for a total amount of \$900.00. The landlord must return that amount.

As the tenants were not entirely successful for this hearing, they must bear the cost of the filing fee.

As for the monetary order, I find that the tenants have established a claim for \$900.00. I grant the tenants an order under section 67 for the balance due of \$900.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

# Conclusion

The tenants are granted a monetary order for \$900.00.

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: January 07, 2016

Residential Tenancy Branch