



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX MANAGEMENT SOLUTIONS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- 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 the notice of hearing package and the submitted documentary evidence was served in person to the tenant, B.W. on November 24, 2015. The landlord has submitted a copy of the Proof of Service statement which shows that the tenant, B.W. signed in acknowledgment of receiving the package. The landlord subsequently filed an amendment dated December 24, 2015 to the monetary claim lowering the amount from \$3,600.00 to \$2,999.04. The landlord has submitted a copy of the Proof of Service statement which shows that the tenant, B.W. signed in acknowledgement of receiving the amended package in person on December 29, 2015. I accept the undisputed and affirmed testimony of the landlord and find that the tenants have been properly served as per sections 88 and 89 of the Act. The tenants are deemed to have received the original notice of hearing package and the submitted documentary evidence on November 24, 2015, and are deemed to have received the amendment to the application on December 29, 2015 as per section 90 of the Act.

During the hearing the landlord made a request as per the amended application seeking to add the owners' names, B.L.S. and R.S. to the application as landlords. Both parties

are listed on the signed tenancy agreement dated October 10, 2015 with the tenants and as such, I find no bias to the tenants to amend the application to include the owners' names. The application shall be amended to include the owners' names, B.L.S. and R.S.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the landlord, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below

This tenancy began on October 15, 2015 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated October 10, 2015. The monthly rent was \$1,350.00 payable on the 1st day of each month.

The landlord stated that no deposits were collected for this tenancy.

The landlord seeks an amended monetary claim of \$2,999.04 which consists of:

\$711.41	Bailiff Costs
\$120.00	Writ Filing Fee
\$202.75	Electricity (unpaid utilities)
\$83.47	Gas (unpaid gas)
\$50.00	Filing Fee
\$250.00	Services (application for decision/order)
\$111.41	Change Locks
\$120.00	Cleaning Cost
\$1,350.00	Unpaid Rent/Loss of Rental Income (November 2015)
\$2,999.04	Total

The landlord stated that the tenants failed to pay rent and obtained an order of possession on November 9, 2015. The landlord obtained a writ of possession from the Supreme Court of BC and had the bailiffs enforce that order. Prior to the bailiffs attendance to enforce the order, the tenants vacated the rental property as noted on the invoice dated November 27, 2016 issued by the bailiffs. The landlord stated that a condition inspection report for the move-out was completed by the landlord with the

bailiffs on November 25, 2015. The landlord stated that the tenant failed to return the keys and that the rental property needed cleaning throughout. The landlord also stated that utilities were not part of the tenancy and that the tenants failed to pay them.

The landlord relies upon copies of:

- Completed signed tenancy agreement.
- 10 Day Notice dated November 4, 2015.
- Proof of Service document for 10 Day Notice dated November 4, 2015.
- Order of Possession dated November 9, 2015.
- Invoice from Bailiffs dated November 27, 2015.
- Receipt for Write Filing Fee.
- Copy of email excerpt from Fortis BC for meter calculations.
- Copy of Fortis BC invoice dated December 3, 2015.
- Invoice from landlord's agent dated December 8, 2015.
- Invoice dated November 26, 2016 for re-keying.
- Email invoice from cleaner dated November 30, 2015.
- Copy of Tenant Rental Ledger.
- A completed condition inspection report for the move-in dated October 28, 2015.
- An incomplete condition inspection report for the move-out dated November 25, 2015.

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.

Section 72 of the *Act* addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the *Act* does not provide for the award of costs associated with litigation to either party to a dispute.

Accordingly, the Landlord's claim for recovery of litigation costs (\$250.00, Services (application for decision/order) is dismissed.

I accept the undisputed affirmed testimony of the landlord and find that a monetary claim has been established. The landlord has provided undisputed evidence that the tenant vacated the rental unit as a result of an order of possession for unpaid rent leaving the unit requiring cleaning and failing to return the keys. The landlord incurred unpaid rent, cleaning, lock changing and bailiff costs. The landlord has provided copies of invoices/receipts and supporting evidence for their claim. The landlord has established a claim for \$2,749.04 which includes the recovery of the filing fee.

Conclusion

The landlord is granted a monetary order for \$2,749.04.

The tenants must be served with this Order. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: February 1, 2016

Residential Tenancy Branch

