



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 296296 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the tenant: MNSD
For the landlord: MND MNR FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The tenant applied for the return of all or part of the security deposit or pet damage deposit. The landlord applied for a monetary order for damages to the unit, site or property, for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the named landlord number company (the “agent”) attended the teleconference hearing. The tenant did not attend the hearing. As the tenant did not attend the teleconference hearing to present the merits of her application, the tenant’s application was **dismissed, without leave to reapply**, after the 10 minute waiting period had elapsed. The hearing continued with consideration of the landlord’s application only.

The hearing process was explained to the agent and he was given an opportunity to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present the landlord’s relevant evidence orally and in documentary form prior to the hearing, and make submissions to me. I have reviewed all 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.

The agent testified that the tenant was served via registered mail on December 10, 2015 with the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), Application for Dispute Resolution (the “Application”) and the landlord’s documentary evidence to the forwarding address provided by the tenant on December 7, 2015. The agent provided a registered mail tracking number which has been included on the cover page of this Decision for ease of reference. According to the online registered mail tracking website, the tenant signed for and accepted the registered mail package on December 19, 2015. Based on the above, I accept that the tenant was served with the Notice of Hearing, Application, and the landlord’s documentary evidence as of December 19, 2015.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on February 14, 2014 and reverted to a month to month tenancy after August 15, 2014. Monthly rent in the amount of \$850.00 was due on the first and 15th day of each month with half of rent being due on the 1st day of the month and the other half of rent being due on the 15th day of the month. According to the tenancy agreement, after four months, the rent was increased by mutual agreement to \$900.00 per month with the rent being due on the same days described above. A security deposit of \$425.00 was paid by the tenant at the start of the tenancy, which the landlord continues to hold.

The landlord's monetary claim is for \$1,025.62 less the tenant's security deposit of \$425.00 for a total monetary order amount of \$600.62 being sought by the landlord as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
Item 1. Cost to replace two front door keys	\$40.00
Item 2. Unpaid portion of October 2015 rent	\$200.00
Item 3. Unpaid portion of November 2015 rent (prorated) November 1 – 7, 2015	\$210.00
Item 4. Unpaid utilities	\$205.62
Item 5. Fill and paint both sides of hallway (4 hours @ \$25 per hour)	\$100.00
Item 6. Clean unit and hallway of garbage left behind (2 hours @ \$25.00 per hour)	\$50.00
Item 7. Dump fees for garbage	\$15.00
Item 8. Paint closet door and remove stickers (2 hours @ \$25.00 per hour)	\$50.00
Item 9. Outside planters – wired brushed due to damage and repainted (3 hours @ \$25.00 per hour)	\$75.00
Item 10. Suite cleaning (4 hours at \$20.00 per hour)	\$80.00
TOTAL	\$1,025.62

The agent provided testimony in support of all items described above including supporting invoices, photos, and a copy of the condition inspection report. The agent stated that the tenant provided her written forwarding address on December 7, 2015. The landlord filed their Application on December 10, 2015. The agent testified that they are seeking to offset the

tenant's security deposit of \$425.00 from any amount they are granted as a result of their Application.

Analysis

Based on the documentary evidence, the undisputed testimony of the agent, and on the balance of probabilities, I find the following.

Test for damages or loss

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 what was reasonable to minimize the damage or loss.

Firstly, as the tenant failed to attend the teleconference hearing, I consider the landlord's Application to be unopposed by the tenant. Secondly, section 26 of the *Act* requires that a tenant pays rent when it is required in accordance with the tenancy agreement which I find the tenant breached by failing to pay \$200.00 for October 2015 rent. In addition, I find the tenant owes \$210.00 as claimed for November 1-7, 2015 for over-holding the rental unit and not vacating until November 7, 2015.

For the remainder of the items being claimed, I find the agent provided sufficient evidence in support of all aspects of their claim which included photos, invoices and a copy of the condition inspection report.

Based on the undisputed testimony of the agent, I find the landlord has met the burden of proof and is entitled to **\$1,025.62** as claimed for items 1 through 10, inclusive.

As the landlord's was successful, I grant the landlord the recovery of their filing fee in the amount of **\$50.00**.

The landlord continues to hold the tenant's security deposit of \$425.00, which has accrued no interest since the start of the tenancy.

I find that the landlord has established a total monetary claim of **\$1,075.62** comprised of \$1,025.62 for items 1 to 10 described above, plus recovery of the \$50.00 filing fee. **I authorize** the landlord to retain the tenant's full security deposit of \$425.00 in partial satisfaction of the landlord's claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$650.62**.

Conclusion

The application of the tenant has been dismissed in full, without leave to reapply.

The landlord's application is fully successful.

The landlord established a total monetary claim of \$1,075.62 and has been authorized to retain the tenant's full security deposit of \$425.00 in partial satisfaction of the landlord's claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$650.62. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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 22, 2016

Residential Tenancy Branch