



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CEDALUM CUSTOM RAILING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNR MNDC FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, received at the Residential Tenancy Branch on May 6, 2016 (the "Application"). The Landlords applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property;
- a monetary order for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or a tenancy agreement; and
- an order granting recovery of the filing fee.

The Landlord T.F. attended the hearing on behalf of both Landlords and provided his solemn affirmation. The Tenants did not attend the hearing.

According to T.F., the Landlords' Application package, including the Notice of a Dispute Resolution Hearing and the documentary evidence upon which the Landlords intended to rely, was served on the Tenants by registered mail on May 11, 2016. Pursuant to section 90 of the *Act*, documents served in this manner are deemed to be received five days later. I find that the Landlords' Application package is deemed to have been received by the Tenants on May 16, 2016.

The Landlord T.F. was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written 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.

Issues to be Decided

1. Are the Landlords entitled to a monetary order for damage to the unit, site, or property?
2. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
3. Are the Landlords entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or a tenancy agreement?
4. Are the Landlords entitled to an order granting recovery of the filing fee?

Background and Evidence

On behalf of the Landlords, T.F. testified that the rental property is roughly 2,000 square feet. It consists of a 3-bedroom suite upstairs and a 1-bedroom suite downstairs. Although a written copy of the tenancy agreement between the parties was not submitted into evidence, T.F. testified the tenancy had been in place for roughly seven years before ending on or about May 31, 2014. According to T.F., the Tenant gave notice to end the tenancy on or about April 14, 2014, but remained in the rental unit until the end of May 2014. Rent in the amount of \$1,500.00 per month was due on the first day of each month. T.F. confirmed all utilities were payable by the Tenants.

The Landlords seek to recover expenses incurred to clean and make repairs to the rental unit, and for unpaid rent. On behalf of the Landlords, T.F. provided oral testimony with respect to these claims, which were conveniently summarized on a Monetary Order Worksheet, as follows:

Utility bills. The Landlords provided seven utility bills totalling \$704.29, with billing dates as far back as April 30, 2012. T.F. testified it was a term of the tenancy agreement that the Tenants pay for all utilities. Although the Tenant made repeated promises to pay, they did not. T.F. confirmed the Landlords paid these invoices to avoid tax consequences with the city.

Stairs, railings and landings. On behalf of the Landlords, T.F. testified that \$1,148.50 was paid to repair stairs, railings and landings that had been taken apart by the Tenants. According to T.F., the Tenants were in the business of repairing and replacing railings and decks, and they had discussed doing so during the tenancy. Although the Landlords were agreeable, the work was never completed. The Landlords submitted photographs of the completed stairs and railings, as well as a receipt from the contractor for the amount indicated above.

Doors. According to T.F. the Tenant's dogs severely damaged the front and rear doors. As a result, one door had to be replaced and the other door was repaired.

Photographs in support were included with the Landlords' documentary evidence, as was a receipt from the Landlords' contractor for \$648.55.

Recycling and dumping. The Landlord submitted two invoices for fees totalling \$145.63 to have various furniture items and garbage removed from the rental property and disposed of. In addition, the Landlords provided photographs showing the poor condition of the rental property when the Tenants vacated.

Unpaid rent. According to T.F., the Tenants provided notice to vacate the rental unit on April 14, 2014, with the intention of moving out on April 31, 2014. The Landlords reminded the Tenants that one month notice was required. Ultimately, the Tenants remained in the rental unit until the end of May 2014, but did not pay rent in the amount of \$1,500.00 that month.

Cleaning. On behalf of the Landlords, T.F. testified the Tenants left the rental property in a very poor state. As a result, the Landlords incurred cleaning fees of \$250.00. Photographs submitted by the Landlord depict dishes and household supplies left in the kitchen, ashes and soot left in the fireplace and on the hardwood floor, and a dirty fridge. The Landlord confirmed the photographs depict the condition of the rental property throughout.

Filing fee. The Landlord also sought to recover the filing fee of \$100.00 paid to make the Application.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

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 for in sections 7 and 67 of the *Act*. 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.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

Pursuant to section 60 of the *Act*, a claim must be made within two years of the date the tenancy ends. In this case, the tenancy ended on or about May 31, 2014, and the Application was filed on May 6, 2016. The Landlords are in time to make their claim.

In this case, T.F. provided unchallenged oral testimony and submitted documentary evidence in support of each aspect of the Landlords' claim, as summarized above. Accordingly, and pursuant to section 67 of the *Act*, I find the Landlord has demonstrated an entitlement to a monetary order in the amount of \$4,496.97, which has been calculated as follows:

Item	Amount awarded
Utility bills:	\$704.29
Stairs, railings and landings:	\$1,148.50
Doors:	\$648.55
Recycling and dumping:	\$145.63
May 2016 rent:	\$1,500.00
Cleaning:	\$250.00
Filing fee:	\$100.00
TOTAL:	\$4,496.97

Conclusion

I grant the Landlords a monetary order in the amount of \$4,496.97. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 7, 2016

Residential Tenancy Branch