



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord requested monetary compensation from the Tenant and to recover the filing fee.

Only the Landlord appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that he personally served the Tenant with the Notice of Hearing and their Application on April 26, 2016; accordingly, I find the Tenant was duly served as of April 26, 2016.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord testified that the tenancy began April 12, 2015. Monthly rent was payable in the amount of \$2,000.00. A copy of the residential tenancy agreement was provided

in evidence which confirmed that the Tenant was responsible for paying 70% of the electrical utility.

The Landlord testified that he obtained an Order of Possession, and later a Writ of Possession in the B.C. Supreme Court. He confirmed that the Bailiff was required to have the Tenant vacate the rental unit; introduced in evidence was a copy of an invoice from the Bailiff confirming that the Landlord was charged \$1,169.85.

The Landlord also sought recovery of the \$120.00 filing fee charged by the B.C. Supreme Court, As well as the \$100.00 filing fee charged by the Residential Tenancy Branch.

The Landlord also sought \$200.00 for the unpaid rent for August 2015 as well as the sum of \$200.00 which the Landlord stated was owed for the electrical utility for the month of August. Although the tenancy agreement provided that the Tenant was to pay 70% of the electrical utility, the Landlord failed to provide a copy of this bill.

Finally, the Landlord sought recovery of the sum of \$336.00 for replacing a broken window. In support the Landlord provided a copy of the receipt for the window dated August 6, 2015.

Analysis

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

The condition in which a Tenant should leave the rental unit at the end of the tenancy is defined in Part 2 of the *Act* as follows:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Based on the undisputed testimony and evidence of the Landlord I find as follows.

I accept the Landlord's evidence that the Tenant failed to vacate the rental unit as required by the Order of Possession and as a result, the Landlord incurred the cost of obtaining a Writ of Possession in the B.C. Supreme Court, as well as the cost to hire a Bailiff. Accordingly, I award the Landlord the \$120.00 and \$1,169.85 claimed.

The Landlord testified that the Tenant failed to pay \$200.00 of the September rent as well as \$200.00 representing the Tenant's portion of the electricity utility. I accept the Landlord's undisputed testimony that these amounts are owing by the Tenant and I award him recovery of the sums claimed.

I also accept the Landlord's undisputed testimony that the Tenant broke a window, which cost \$336.00 to repair.

In the Landlord's Monetary Order worksheet the Landlord indicated he paid a \$50.00 filing fee; this was clearly in error as the filing fee as of April 12, 2016 when the Landlord applied, was \$100.00. Accordingly, I award the Landlord recovery of this amount.

The Landlord also claimed recovery of the \$9.95 paid for the cost to mail documents related to this proceeding. Such amounts are not recoverable under the *Act*, and I therefore decline his request for compensation in this amount.

In summary I award the Landlord the sum of **\$2,125.85** for the following

Bailiff charges	\$1,169.85
B.C. Supreme Court filing fee	\$120.00
Balance of September rent owing	\$200.00
Tenant's portion of electrical utility	\$200.00
Repair of window broken by Tenant	\$336.00
Residential Tenancy Branch filing fee	\$100.00
TOTAL AWARDED	\$2,125.85

Conclusion

The Landlord is granted Monetary Order in the amount of **\$2,125.85** and must serve a copy of the Order on the Tenant. If necessary the Order may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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 10, 2016

Residential Tenancy Branch