



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

The landlords attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlords stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on May 27, 2016. The landlord has provided a copy of the Canada Post Customer Receipt Tracking number and a printout of the online tracking history. The landlord states that multiple notice cards were left by Canada Post and ultimately the package was returned as unclaimed. I accept the undisputed affirmed evidence of the landlords and find that the tenant was properly served as per sections 88 and 89 of the Act. Although the tenant failed to claim the package, I find that the tenant is deemed served as per section 90 of the Act 5 days later on June 1, 2016.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent/utilities, for damage to the unit and for money owed or compensation for damage or loss?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

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

This tenancy began on August 1, 2015 on a fixed term tenancy ending on July 31, 2016 as shown by the submitted copy of the signed tenancy agreement dated August 1, 2015. The monthly was \$1,250.00 payable on the 1st day of each month. A security deposit of \$625.00 was paid on August 1, 2015.

The landlords stated that the tenant pre-maturely ended the tenancy sometime from April 7 to April 30. The landlords clarified that the tenant had sent him a text message on April 7, 2016 to call the tenant. Upon calling the tenant on April 7, 2016 the landlord was informed that the tenant would be vacating the rental unit at the end of April. The landlord discovered on April 30, 2016 when he attended to perform a condition inspection report that the tenant had vacated without any other notice. Upon inspection the landlord found that the tenant had left the rental unit dirty and damaged. The landlord also stated that the tenant had failed to pay a portion of his rent for March and all of the rent for April. During the cleaning/repair of the rental unit the landlord had to travel between towns to complete the cleaning and repairs to make the rental unit rentable.

The landlord seeks a monetary claim of \$2,276.22 which consists of:

\$37.38	Supplies
\$21.71	Propane/Travel
\$21.08	Propane/Travel
\$13.20	Garbage Removal
\$129.91	Supplies/Material
\$208.95	Thermostat Repair
\$60.00	Cleaning
\$283.99	Faucet Repair
\$250.00	Unpaid Rent, Partial March
\$1,250.00	Unpaid Rent, April

The landlord has submitted in support of the claim:

- A copy of the signed tenancy agreement
- A copy of the completed condition inspection report for the move-in
- A copy of the incomplete condition inspection report for the move-out
- 25 photographs showing the condition of the rental unit before and after the tenant had resided at the rental unit
- 8 pages of receipts for all purchases
- 16 pages of text message(s) between the landlord and tenant

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.

I accept the undisputed affirmed evidence of the landlord and find that the landlord has established a monetary claim for cleaning, repairs and damages caused by the tenant. However, I dismiss two portions of the landlord's claim totalling, \$42.79 which consists of:

\$21.71 Propane/Travel

\$21.08 Propane/Travel

I find that these portions of the landlords' claim cannot be considered as the action of travelling to and from the rental unit cannot be an expense the landlord may claim against the tenant. The remaining portions of the landlords' claim are granted. The landlords have established total monetary claim of \$2,233.43.

In offsetting this claim, I order that the landlord may retain the \$625.00 security deposit currently held by the landlord.

Conclusion

The landlord is granted a monetary order of \$1,608.43.

This order must be served upon the tenant. Should the tenant fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court of British Columbia and enforced as an order 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: November 16, 2016

Residential Tenancy Branch