



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 425822 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, 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 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;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on August 25, 2016. I accept the undisputed affirmed testimony of the landlord and find that both parties have been properly served as per sections 88 and 89 of the Act.

During the hearing the landlord withdrew two portions of the monetary claim for:

\$200.00	Liquidated Damages
\$213.50	Cleaning

Issue(s) to be Decided

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss and recovery of the filing fee?

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 February 15, 2016 on a fixed term tenancy ending on January 31, 2017 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated January 28, 2016. The monthly rent was \$750.00 payable on the 1st day of each month and a security deposit of \$375.00 was paid on January 28, 2016. Condition inspection report(s) for the move-in was completed on February 12, 2016 and a move-out on August 1, 2016 by both parties.

The landlord seeks a monetary claim of \$1,696.00 which consists of:

\$750.00	Loss of Rental Income August 2016, Insufficient Notice to Vacate
\$157.50	Pest Control Services, Bedbugs

The landlord stated that the tenant failed to provide proper notice to end the tenancy and retained possession of the rental unit until August 1, 2016. The landlord stated that written notice was received on July 18, 2016 from the tenant for him to vacate the rental unit on July 31, 2016. The landlord stated that the tenant breached the fixed term tenancy ending on January 31, 2017 by pre-maturely ending it on August 1, 2016, which was past the notice date and that the tenant overheld the rental unit preventing the landlord from re-renting it. The landlord stated that the tenant vacated the rental unit leaving it dirty requiring cleaning to make it re-rentable and that upon inspection the landlord discovered that the rental unit was infested with bedbugs which required pest control treatment. The landlord stated that efforts to mitigate any possible losses were made by immediately advertising the rental unit with no success. In support of this application the landlord has provided a copy of the pest control service invoice.

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 tenant failed to provide proper 1 month notice to end the tenancy on July 18, 2016 for July 31, 2016 and then overholding the rental unit until August 1, 2016 for \$750.00 in loss of rental income. I also find based upon the undisputed affirmed evidence of the landlord that the tenant vacated the rental upon upon which the landlord discovered that the tenant left it with a bedbug infestation requiring pest control services of \$157.50.

The landlord having been successful in his application is entitled to recovery of the \$100.00 filing fee.

The landlord stated that he currently holds the \$375.00 security deposit and in offsetting the landlord's claim, I authorize the landlord to withhold the \$375.00 security deposit against the \$1,007.50 claim established by the landlord.

Conclusion

The landlord is granted a monetary order for \$907.50.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court 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: March 03, 2017

Residential Tenancy Branch

