



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for an Order of Possession, a monetary Order for unpaid rent, for a monetary Order for damage, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. At the hearing the Landlords withdrew the application for an Order of Possession, as the rental unit has been vacated.

The female Landlord stated that on September 30, 2016 the Application for Dispute Resolution, the Notice of Hearing, and 41 pages of evidence the Landlord submitted with the Application were sent to each Tenant, via registered mail, at the service address noted on the Application. The female Landlord cited two Canada Post tracking number that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Tenant appeared at the hearing.

Issue(s) to be Decided

Are the Landlords entitled to compensation for damage to the rental unit, to compensation for unpaid rent/lost revenue, and to keep all or part of the security deposit?

Background and Evidence

The female Landlord stated that:

- the tenancy began on January 01, 2016;
- a condition inspection report was completed on December 23, 2015;
- monthly rent of \$1,303.00 was due by the first day of each month;
- the Tenants paid a pet damage deposit of \$600.00 and a security deposit of \$650.00;
- the Landlords are seeking compensation for rent for August of 2016, as none was paid;

- the Landlords posted a Ten Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on August 02, 2016;
- the Landlords were granted an Order of Possession for the rental unit on August 23, 2016;
- the Order of Possession was personally served to the male Tenant on August 25, 2016;
- at around 5:00 p.m. on September 01, 2016 the Landlords concluded that the Tenants had finished moving their property from the rental unit and they changed the locks to the unit;
- the Landlords offered the Tenants an opportunity to complete a final condition inspection on September 01, 2016, to which the Tenants did not respond;
- the Landlords posted a Final Opportunity to Complete a Condition Inspection Report on the door of the rental unit on September 01, 2016, while the Tenants were in the process of moving;
- the Final Opportunity to Complete a Condition Inspection Report suggested that the inspection be completed on September 02, 2016 at 11:45 a.m.;
- when she drove by the unit at approximately 09:00 a.m. on September 02, 2016 she noticed the rental unit had been broken into;
- the male Tenant was at the rental unit on September 02, 2016 at 11:45 a.m.;
- she would not get out of the car as the male Tenant was acting aggressively and was frightening her;
- while she was in the car the male Tenant told her he had broken into the rental unit;
- she told the male Tenant the police were on their way and he left before the police arrived; and
- the Tenants provided a forwarding address, by email, on September 14, 2016 and by mail a few days later.

The Landlords are seeking compensation, in the amount of \$29.72, for replacing light bulbs. The Landlords submitted a receipt, in the amount of \$67.80, that indicates they paid \$26.54 plus tax for light bulbs. The female Landlord stated that this receipt represents the cost of replacing 5 light bulbs that had burned out during the tenancy.

The Landlords are seeking compensation, in the amount of \$36.69, for replacing light bulbs and a toilet seat. The Landlords submitted a receipt, in the amount of \$36.69. The female Landlord stated that this receipt represents the cost of replacing another 3 light bulbs that had burned out during the tenancy and to replace a toilet seat that was damaged during the tenancy.

The Landlords are seeking compensation, in the amount of \$25.68, for replacing light bulbs and a closet door. The Landlords submitted a receipt, in the amount of \$25.68. The female Landlord stated that this receipt represents the cost of replacing two exterior light bulbs and a closet door that was damaged during the tenancy.

The Landlords are seeking compensation, in the amount of \$150.00, for repairing three holes in the drywall, which the female Tenant stated was damaged during the tenancy. The Landlords submitted a receipt, in the amount of \$150.00, for this repair.

The Landlords are seeking compensation, in the amount of \$373.50, for cleaning the rental unit and disposing of property left in the unit at the end of the tenancy. The Landlords submitted photographs and two receipts to support this claim.

The Landlords are seeking compensation of \$338.78 for lost revenue during the first seven days of September. The female Landlord stated that they were unable to rent the unit for the first seven days of September due to the need to clean and repair the unit prior to the next tenants moving in.

The Landlords are seeking compensation of \$22.68 for mailing costs and \$5.30 for costs of photocopying documents for these proceedings.

Analysis

On the basis of the undisputed evidence I find that the rent of \$1,303.00 that was due on August 01, 2016 was not paid. As tenants are required to pay rent when it is due, pursuant to section 26 of the *Residential Tenancy Act (Act)*, I grant the Landlords' claim of \$1,303.00 for unpaid rent.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to leave the rental unit in reasonably clean condition at the end of the tenancy; failed to replace light bulbs that burned out during the tenancy; and failed to repair the drywall/closet door/toilet seat that was damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for the cost of rectifying all of these problems, in the amount of \$615.59.

On the basis of the undisputed evidence I find that the Landlords were unable to rent the unit for the first seven days of September due to the need to clean and repair the unit prior to the next tenants moving in. As this loss stems from the Tenants failure to comply with section 37(2) of the *Act*, I find that the Landlords are entitled to compensation for lost revenue, in the amount of \$304.01. This award is based on per diem rent of \$43.43.

I find that the Landlords' Application for Dispute Resolution has merit and that the Landlords are entitled to recover the fee for filing this Application for Dispute Resolution.

The dispute resolution process allows an Applicant to claim for compensation or loss as the result of a breach of *Act*. With the exception of compensation for filing the Application for Dispute Resolution, the *Act* does not allow an Applicant to claim compensation for costs associated with participating in the dispute resolution process. As the \$22.68 for mailing and \$5.30 for photocopying are costs associated to participating in the hearing, I am unable to award compensation for these costs.

Conclusion

The Landlord has established a monetary claim, in the amount of \$2,322.60, which includes \$1,303.00 in unpaid rent; \$615.59 for damages, \$304.01 in lost revenue, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlords to retain the Tenants' security deposit and pet damage deposit of \$1,250.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,072.60. In the event the Tenants do not voluntarily comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: March 31, 2017

Residential Tenancy Branch