



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the Landlords: MNR FF
For the Tenants: MNDC FF

Introduction

This hearing dealt with cross-applications by the parties for Applications for Dispute Resolution under the *Residential Tenancy Act* (the “Act”). The tenants applied for a monetary order in the amount of \$2,000.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee. The landlords applied for a monetary order for unpaid rent or utilities and to recover the cost of the filing fee.

The landlords attended the teleconference hearing which began promptly on Thursday, June 15, 2017 at 3:00 p.m. Pacific Time by conference call as per the Notice of a Dispute Resolution Hearing provided to both parties. The line remained open while the phone system was monitored for 57 minutes and the only participants who called into the hearing during this time were the landlords who were prepared to proceed. After the ten minute waiting period, the tenants’ application was **dismissed in full, without leave to reapply**.

The hearing continued with consideration of the landlords’ application. The landlords testified that tenant J.J. was the only tenant they served with the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), the Application for Dispute Resolution (the “Application”) and documentary evidence. As a result, any resulting monetary order will only name tenant J.J. as I am not satisfied that tenant H.T. was sufficiently served under the Act. Given the above, I considered service of the Notice of Hearing, Application and documentary evidence on tenant J.J. (the “tenant”). The landlords testified that they mailed one package to the tenant on Thursday, April 27, 2017 to the service address listed on the tenants’ application. There was no evidence before me that the mail

package was returned to the landlords. Based on the above and without any evidence to prove to the contrary, I am satisfied that the tenant was sufficiently served under the *Act* five days after April 27, 2017 in accordance with section 90 of the *Act*. As the tenant did not attend the hearing, I also consider the landlords' application to be undisputed and unopposed.

Issue to be Decided

- Are the landlord entitled to a monetary order under the *Act* and if so, in what amount?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on February 1, 2016 and was a fixed term tenancy scheduled to end on February 1, 2017. According to the landlords, the tenants vacated the rental unit early on September 30, 2016. Monthly rent of \$1,500.00 was due on the first day of each month. The landlords stated that the tenants paid a \$300.00 security deposit which was returned to the tenants.

The landlords provided a monetary breakdown of their claim as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent for October 2016	\$750.00
2. Recovery of the cost of the filing fee	\$100.00
3. Cleaning costs, repair damaged steps and costs to replace lost keys	\$300.00
TOTAL	\$1,150.00

Regarding item 1, the landlords are seeking \$750.00 from tenant J.J. for her portion of unpaid October 2016 rent due to what they testified is a breach of the fixed term tenancy agreement. The tenant vacated the rental unit on September 30, 2016. The landlords affirmed that they were successful in re-renting the rental unit effective November 1, 2016.

Regarding item 2, the landlords are seeking the recovery of the cost of the filing fee which will be addressed later in this decision.

Regarding item 3, the landlords have claimed \$300.00 which is comprised of \$100.00 for cleaning costs, \$150.00 for stair repairs and \$50.00 for new keys as the tenant failed to return her rental unit keys. The landlords testified that it took between four and five hours to clean the rental unit as the tenant left unfrozen meat in the freezer area and that the rental unit was not cleaned before the rental unit was vacated. The landlords referred to a photo submitted in evidence in support of their claim for \$150.00 to repair damage caused by the tenant moving a piano which scratched most of the 13 wooden stairs. The landlords also affirmed that the tenant failed to return the rental unit keys which resulting in a cost to the landlords to replace the keys at \$50.00.

Analysis

Based on the landlords' undisputed documentary evidence and unopposed testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant did not attend the hearing and the tenants' application has been dismissed, I find that the landlords' monetary claim is unopposed by the tenant. As the tenant vacated the rental unit before the end of the fixed term tenancy agreement submitted in evidence, I find that the landlords suffered a loss of October 2016 rent and note that the landlords have only requested \$750.00 in unpaid rent from the tenant as her portion of the unpaid rent. I also find the entire landlords' claim to be reasonable and supported by evidence and that the claim has merit. Furthermore, I find the tenant breached sections 26, 37 and 45 of the *Act*. Section 26 requires that rent be paid on the date that it is due in accordance with the tenancy agreement which I find the tenant failed to do for October 2016, section 37 of the *Act* requires that the tenant leave the rental unit in reasonably clean condition which I find the tenant failed to do, and section 45 indicates that a fixed term tenancy cannot be ended in the way the tenant ended the tenancy. Therefore, I grant the landlords the recovery of the cost of the filing fee in the amount of \$100.00 as the landlords' application has merit.

Section 7 of the *Act* requires that an applicant seeking compensation for damage or loss under the *Act* do what is reasonable to minimize the damage or loss. As the landlords secured a new tenant effective November 1, 2016 I find the landlords minimized their rental loss and complied with section 7 of the *Act* as a result.

Given the above, I find the landlords have met the burden of proof in proving their monetary claim in the full amount of \$1,150.00 as claimed. Pursuant to section 67 of the *Act*, I grant the landlords a monetary order in the amount of **\$1,150.00** owing by the tenant to the landlords.

Conclusion

The tenants' application has been dismissed in full, without leave to reapply.

The landlords' application is fully successful.

The landlords have been granted a monetary order pursuant to section 67 of the *Act* for the amount owing by the tenant to the landlords in the amount of \$1,150.00. Should the landlords require enforcement of the monetary order, the monetary order must be served on the tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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: June 30, 2017

Residential Tenancy Branch