



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for damage to the unit, site or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the security deposit; and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord and both tenants attended the hearing. The landlord's agent and one of the tenants gave affirmed testimony and the parties were given the opportunity to question each other and give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenants for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for liquidated damages?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on August 15, 2016 and was to expire on July 31, 2017 thereafter reverting to a month-to-month tenancy, however the tenants vacated the rental unit on March 31, 2017.

Rent in the amount of \$2,000.00 per month was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$1,000.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a townhome, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that when the tenancy agreement was signed by the parties, the landlord's agent went over each clause with the tenants and had them initial each clause acknowledging that they understood each of the terms. Clause 4 of the tenancy agreement provides for liquidated damages as follows:

"4. RENTAL PERIOD. THE TENANCY SHALL COMMENCE on the 15 day of August, 2016 and end on the 31 day of July, 2017 and if not renewed before the end of the original term by a new agreement, the tenancy shall continue as a month-to-month tenancy. However, if the Tenant terminates the tenancy before the end of the original term, the Landlord may, at the Landlord's option, treat this Agreement at an end and in such event the sum of \$1,000 shall be paid by the Tenant to the Landlord as liquidated damages and not as a penalty. The payment by the Tenant of the said liquidated damages to the Landlord is agreed to be in addition to any other right or remedies available to the Landlord."

The tenants gave the landlord notice to vacate in writing, and a copy has been provided for this hearing. It is dated February 10, 2017 and contains an effective date of vacancy of April 1, 2017, and the landlord's agent immediately advertised the rental unit on Craigslist (an on-line advertising website) and notified the head office who also advertised on the landlord's website. The landlord does not claim loss of rental revenue although the rental unit did not re-rent until May 1, 2017.

The landlord's agent further testified that move-in and move-out condition inspection reports were completed at the beginning of the tenancy and at the end of the tenancy. Copies have been provided, and both were represented by at least one of the tenants and signed. The landlord claims \$40.00 for cleaning the rental unit and testified that the fridge and stove were not pulled out and cleaned by the tenants at the end of the tenancy but they were pulled out and inspected at the beginning of the tenancy.

The tenants had installed child-locks on drawers in the kitchen with screws but didn't remove them, and the landlord claims an hour of labor for doing so at \$20.00.

Further, there were some damaged slats in blinds at the end of the tenancy and the landlord claims \$10.00 for replacing the slats.

The tenants provided the landlord with a forwarding address in writing on March 31, 2017.

The landlord claims \$1,000.00 as liquidated damages, \$40.00 for cleaning, \$20.00 for removing child locks, \$10.00 for repairing the blinds and recovery of the \$100.00 filing fee, for a total of \$1,170.00. The landlord also seeks to keep the \$1,000.00 security deposit in partial satisfaction.

The tenant testified that he signed the tenancy agreement, but tried to negotiate a lesser amount and the landlord wouldn't agree.

The tenant made improvements to the rental unit, including cleaning at the beginning and during the tenancy. Considering the time the tenant put in, the tenant does not agree to the landlord's claim.

The tenant also testified that the fridge and stove were not pulled out at the move-in condition inspection. The tenants cleaned for days prior to moving out.

Analysis

The landlord has not advanced the claim for unpaid rent and I dismiss that portion of the application.

Liquidated damages must be a pre-determined estimate of the costs associated with re-renting a rental unit if the tenant causes the tenancy to end earlier than the fixed term. It is a legal and binding contract, and I find no evidence to support that it is not, or any evidence to suggest that it was not a pre-determined amount. The tenancy agreement clearly states it is not a penalty, and I find that the amount is not exaggerated. The term in this case is for half a month's rent, and the parties agree that the tenants ended the tenancy 4 months earlier than the fixed term. Therefore, I find that the landlord has established the \$1,000.00 claim.

The *Residential Tenancy Act* states that a tenant must leave a rental unit reasonably clean and undamaged at the end of a tenancy. In this case, I have reviewed the move-in and move-out condition inspection reports, and considering the testimony of the tenant that the fridge and stove were not pulled out and inspected at the beginning of the tenancy, and considering that there are no other notations about lack of cleanliness that didn't exist at move-in, I am not satisfied that the tenants failed to leave the rental unit reasonably clean. The landlord's application for \$40.00 to clean is dismissed.

I accept the undisputed testimony of the landlord's agent that the tenants had installed child locks on cupboards or drawers and the landlord's agent incurred the time to remove them prior to re-renting. I accept the landlord's \$20.00 claim.

The tenants did not dispute the broken blinds, and considering the move-in and move-out condition inspection reports, I am satisfied that the landlord has established the \$10.00 claim.

Since the landlord has been partially successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I order the landlord to keep the \$1,000.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord as against the tenants for the difference in the amount of \$130.00.

Conclusion

For the reasons set out above, the landlord's application for a monetary order for unpaid rent or utilities is hereby dismissed.

I hereby order the landlord to keep the \$1,000.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$130.00.

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: September 14, 2017

Residential Tenancy Branch