



Dispute Resolution Services

Page: 1

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 MND, MNR, MNDC, 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, 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;
- authorization to recover its filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served the tenants with the notice of hearing package via Canada Post Registered Mail on July 14, 2017. The landlord stated that beyond the 3 pages of proof of service documents regarding the notice of hearing package, a further package of documentary evidence was provided. A search of the file and the online system revealed no further evidence provided. The landlord stated that he had no further proof of service regarding the additional documentary evidence. The tenant, D.V. (the tenants) also stated that he did not provide any documentary evidence to the landlord as submitted to the Residential Tenancy Branch.

I accept the evidence of both parties and find that both parties have been properly served with the notice of hearing package as per sections 88 and 89 of the Act. As for the tenants documentary evidence, I find that the tenants have failed to provide a copy of the submitted documentary evidence to the landlord as per sections 88 and 89 of the Act that this submission is excluded from consideration in this decision.

During the hearing the landlord clarified that he was cancelling portions of his monetary claim as these were resolved or no longer required:

\$950.00	Unpaid Rent
\$241.68	Repairs
\$40.00	Garbage Removal

The hearing shall continue on the remaining below listed items of claim.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for damage, 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.

Both parties confirmed that this tenancy began on October 1, 2015 on a fixed term tenancy ending on September 30, 2016 and then thereafter on a month-to-month basis. The monthly rent was \$1,350.00 payable on the 1st day of each month. A security deposit of \$675.00 was paid. Both parties confirmed that a condition inspection report for the move-in was completed.

The landlord seeks a revised monetary claim of \$931.05 which consists of:

\$124.95	Carpet Cleaning Costs
\$66.40	Blinds
\$384.00	Cleaning and Materials
\$355.70	Painting

The landlord claims that the tenant vacated the premises leaving the carpets dirty and stained; with a missing blind; generally dirty requiring cleaning; and walls marked and discolored requiring painting.

The tenant disputes the landlord's claims stating that the rental premises were left clean throughout with no marks on the walls. The tenant stated that he could not dispute this portion of the claim, but stated that there was one missing blind in the rental premises.

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 it is the responsibility of the landlord to provide sufficient evidence that the tenants vacated the rental premises leaving it dirty and damaged. The landlord has relied solely on direct testimony which was disputed by the tenant. The tenant did confirm that there was one missing blind at the end of tenancy. As such, I find on a balance of probabilities that the landlord has failed to establish a claim for the entire monetary amount by providing sufficient evidence that the rental premises was left dirty and damaged with the exception of the missing blind. As such, the landlord has established a claim for \$66.40.

The landlord having been found partially successful is entitled to recovery of the \$100.00 filing fee.

I authorize the landlord to retain \$166.40 from the currently held \$675.00 security deposit. I order that the landlord return the remaining balance of \$508.60.

Conclusion

The tenant is granted a monetary order of \$508.60 for the return of the remaining portion of the security deposit.

This order must be served upon the landlord. Should the landlord 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: January 12, 2018

Residential Tenancy Branch