



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein the Tenant requested monetary compensation from the Landlord.

The hearing was conducted by teleconference at 2:00 p.m. on February 21, 2018. Only the Tenant called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Tenant testified that he personally served the Landlord with the Notice of Hearing and the Application on August 23, 2017 after retrieving the Notice of Hearing from the local Service B.C. office. I accept the Tenant's testimony and find the Landlord was duly served as of August 23, 2017. Accordingly, I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Tenant's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

1. Is the Tenant entitled to monetary compensation from the Landlord?

Background and Evidence

The Tenant testified that his monthly rent is \$650.00.

The circumstances giving rise to this application are as follows. The Tenant stated that the Landlord, without the Tenant's knowledge or consent, allowed his guests to use the Tenant's rental unit for two weeks while the Tenant was away. He sought the sum of \$400.00 representing the rent he paid from July 11 to July 29, 2017 when the rental unit was used by the Landlord's guests.

The Tenant further testified that while the Landlord's guests were in his rental unit, they damaged his vacuum by vacuuming up a broken light bulb. He claimed \$275.50 for the cost to repair his vacuum and provided a receipt in evidence confirming this cost.

The Tenant also claimed \$100.00 for the cost of cleaning supplies and time spent cleaning his rental unit after the Landlord's guests left.

Analysis

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* allow me to conduct a hearing in the absence of one of the parties and read as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

I found the Landlord was duly served with this application and therefore the hearing proceeded on an undisputed basis.

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Tenant has the burden of proof to prove her claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

I accept the Tenant's undisputed testimony that the Landlord allowed his guests to use the Tenant's rental unit for a period of time between July 11-29, 2017 without the Tenant's consent.

I find the Landlord violated the Tenant's right to quiet enjoyment and in particular his right to exclusive possession of the rental unit which is protected by section 28 of the Act and which reads as follows:

Protection of tenant's right to quiet enjoyment

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 *[landlord's right to enter rental unit restricted]*;
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Evidence submitted by the Tenant suggests the Landlord allowed people who were displaced by wildfires to reside in the rental unit; while the Landlord may feel this was justified, the tenancy agreement granted the Tenant possession of the rental unit and therefore the unit was not available to the Landlord for this purpose. I therefore award the Tenant recovery of the rent paid for the period of time which the Landlord took possession of the rental unit.

I also accept the Tenant's evidence that persons residing in his rental unit damaged his vacuum and I award him the amounts claimed.

I also award the Tenant recover of the amounts claimed for cleaning the rental unit after the Landlord's guests left.

Conclusion

The Tenant is granted a Monetary Order in the amount of **\$775.50** for the following:

Rent for July 11-29	\$400.00
Vacuum repair	\$275.50
Cleaning	\$100.00
Total awarded	\$775.50

The Tenant must serve the Monetary Order on the Landlord and may file and enforce it in the B.C. Provincial Court (Small Claims Division) 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: February 23, 2018

Residential Tenancy Branch