



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MND; MNDC; MNSD; FF

Introduction

This is the Landlord's Application for Dispute Resolution made September 8, 2017, seeking compensation for damage or loss under the Act, regulation or tenancy agreement; a monetary award for damages to the rental unit; to apply the security deposit in satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent TP attended the Hearing and provided affirmed testimony.

TP testified that she mailed the Notice of Hearing documents and copies of the Landlord's documentary evidence to each of the Tenants, by registered mail, on September 15, 2017, to the forwarding address provided by the Tenants. The Landlord provided copies of the registered mail receipts in evidence.

Based on TP's affirmed testimony and the Landlord's documentary evidence, I am satisfied that both of the Tenants were duly served and the Hearing continued in the Tenants' absence.

Issue(s) to be Decided

Is the Landlord entitled to a monetary award for liquidated damages, damages to the rental unit and recovery of the filing fee?

Background and Evidence

TP gave the following testimony:

This tenancy began on July 1, 2017. The tenancy agreement, a copy of which was provided in evidence, was a 6 month lease ending on December 31, 2017. The Tenants paid a security deposit in the amount of \$512.50 and a pet damage deposit in the amount of \$200.00, for a total of \$712.50. The Tenants also paid a deposit in the amount of \$25.00 for a "laundry card". The Tenants ended the tenancy before the end of the term, on August 30, 2017. The Landlord was able to re-rent the rental unit for September 1, 2017.

The Tenants were present at the condition inspection at the beginning and at the end of the tenancy, but declined to sign the move-out Condition Inspection Report, a copy of which was provided in evidence. The Tenants gave their forwarding address to the Landlord on August 30, 2017.

At the end of the tenancy, the Tenants left nail holes in a wall which required repairing. The Landlord seeks a monetary award in the amount of \$40.00 for the cost of repairs.

The tenancy agreement provides for liquidated damages in the amount of \$350.00 if the Tenants ended the tenancy before the end of the term. The Landlord seeks a monetary award in that amount for liquidated damages.

The Landlord has already refunded \$222.50 from the security deposit to the Tenants. The Landlord also returned the \$25.00 deposit for the "laundry card".

Analysis

I accept TD's uncontested affirmed testimony in its entirety.

I find that the liquidated damages clause in the tenancy agreement is a valid clause and award this portion of the Landlord's application.

With respect to the Landlord's application for damages to the wall in the amount of \$40.00, I find that the Landlord did not provide sufficient evidence that the repairs were for damages beyond normal wear and tear, of the cost to make the repairs. The

Landlord did not provide photographs of the damage or invoices or receipts for the cost of the repairs. Therefore, this portion of its claim is dismissed.

The Landlord has been largely successful in its Application and I find that it is entitled to recover the cost of the \$100.00 filing fee from the Tenants.

Pursuant to the provisions of Section 72 of the Act, I set off the Landlord's award against the balance of the security and pet damages deposits being held by the Landlord, as follows:

Total deposits (\$512.50 + \$200.00 + \$25.00)	\$737.50
Less liquidated damages	<\$350.00>
Less filing fee	<\$100.00>
Less amount already refunded to Tenants	<\$247.50>
Balance of deposits remaining	\$40.00

I ORDER that the Landlord return \$40.00 to the Tenants forthwith.

Conclusion

The Landlord's application is granted, with the exception of its claim for \$40.00 for the cost of repairing a wall.

The Tenants are hereby provided with a Monetary Order in the amount of \$40.00 for service upon the Landlords. This Order may be enforced in the Provincial Court of British Columbia (Small Claims 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: April 11, 2018

Residential Tenancy Branch