



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PLAN A REAL ESTATE SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order 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 tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 22, 2017 to the tenant's forwarding address provided on the incomplete condition inspection report for the move-out dated August 31, 2017. The landlord also submitted a copy of the Canada Post Customer Receipt and Tracking label as confirmation. I accept the undisputed affirmed evidence of the landlord and find that both parties have been properly served as per sections 88 and 89 of the Act. Although the tenant did not attend the scheduled conference call hearing, I am satisfied that the tenant has been deemed served 5 days later on September 27, 2017 as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for money owed or compensation 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.

The landlord clarified that she seeks a monetary claim of \$649.75 which consists of:

\$74.12	Unpaid Utilities, Hydro
\$50.00	Visitor Pass, not returned by tenant
\$175.75	Unpaid Utilities, Hydro
\$97.28	Unpaid Utilities, Hydro
\$200.00	Strata Fine, Loud Noise Complaint
\$53.95	Unpaid Utilities, Hydro
\$13.67	Unpaid Utilities, Hydro
\$75.00	Carpet Cleaning Charge
\$175.00	Cleaning Charge
\$70.00	Repairs, replace burnt out lightbulbs
\$100.00	Recovery of RTB Filing Fee

A review of the above noted items total, \$1,084.77, no explanation was provided by the landlord for this discrepancy. However, as the original monetary claim filed was for \$1,325.00, the landlord's monetary claim shall be amended to \$1,084.77. The landlord claims that a \$1,325.00 security deposit is held that was paid by the tenant.

The landlord claims that the tenancy ended and during the condition inspection report for the move-out found that the tenant had left it dirty requiring cleaning, carpet dirty requiring cleaning and burn out lightbulbs requiring replacement. The landlord upon notifying the tenant of these issues, the tenant refused to sign and acknowledge the condition inspection report for the move-out. The landlord has submitted in support of these claims an incomplete condition inspection report for the move-out, an invoice for cleaning, an invoice for carpet cleaning and a letter from the strata imposing a fine during the tenancy.

The landlord also claims that as part of the signed tenancy agreement the tenant was to open a BC Hydro Account in the tenant's name and assume responsibility to the utility charges upon move-in. The landlord has provided copies of the above mentioned unpaid utilities that were not changed over.

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, I accept the undisputed affirmed evidence of the landlord and find that the landlord has provided sufficient evidence to satisfy me that the tenant vacated the rental unit leaving it dirty requiring cleaning, the carpets dirty requiring cleaning, left with burnt out lightbulbs, an unpaid strata fine and unpaid utilities that the tenant was responsible for during the tenancy. As such, I find based upon the landlord's submitted documentary evidence in conjunction with the landlord's undisputed affirmed testimony that a claim has been established for \$984.77.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain \$1,084.77 from the currently held security deposit of \$1,325.00. The tenant is granted a monetary order for \$240.23. The landlord must return the \$240.23 to the tenant.

Conclusion

The landlord's application is granted. The landlord may retain \$1,084.77 from the currently held \$1,325.00 security deposit. The tenant is granted a monetary order for \$240.23 for return of the difference.

This order must be served upon the landlord. Should the landlord fail to comply with this 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: April 12, 2018

Residential Tenancy Branch