



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, 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 tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenants pursuant to section 72.

The landlord attended the hearing via conference call and provided affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord provided undisputed affirmed testimony that both the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 21, 2017. The landlord has submitted in support of this claim 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 the tenant was properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act.

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.

This tenancy began on October 1, 2016 on a fixed term tenancy ending on September 30, 2017 as per the submitted copy of the signed tenancy agreement dated September 20, 2016. The monthly rent was \$1,000.00 payable on the 1st day of each month. A security deposit of \$500.00 was paid on February 29, 2016. A condition inspection report for the move-in was completed on March 28, 2016 and the move-out on September 1, 2017.

The landlord clarified that she seeks a monetary claim of \$924.56 which consists of:

\$333.35	Unpaid Rent, September 1-11, 2017
\$100.00	Liquidated Damages, gas
\$25.00	Late Fee, September 2017
\$240.00	Wall Repairs, holes and cat scratches (12 hrs. @ \$20.00/hr.), labour
\$50.00	Clogged Drain (Kitchen and Bathroom), labour
\$20.03	Replace Lint Screen, Dryer
\$8.92	Replace, burnt out lightbulb(s) (X4 @ \$2.23Ea.)
\$75.00	Replace, stove, broken kitchen stove control knob broken

The landlord claims that the tenant prematurely vacated the rental unit on September 1, 2017 after giving notice to end the tenancy via email on August 12, 2017 to end the tenancy on September 30, 2017. The landlord seeks recovery of unpaid rent/loss of rental income for September 1-11, 2017 of \$333.35 (for the period of time because a new tenant was not found to occupy the rental unit until September 11, 2017). The landlord also seeks compensation of \$100.00 in liquidated damages for the landlord's efforts in re-renting the premises without warning as provided for in the signed tenancy agreement. The landlord also seeks compensation for administrative costs of \$25.00 for late rent for September 2017 as provided for in the signed tenancy agreement. During the scheduled condition inspection report for the move-out on September 1, 2017, the landlord noted numerous holes in the various walls which required extensive patching and then painting (12 hours @ \$20.00 an hour, but the amount of time spent exceeded this claim over a 4 day period); numerous scratches to the walls caused by the tenant's cat; clogged drains in the kitchen and bathroom which required "snaking" and the cleaning of those drains (2 hours @ \$20.00 an hour, but the amount of time exceeded this claim); a broken lint screen on the dryer; a missing kitchen sink plug/screen; and 4 burnt out lightbulbs requiring replacement. The landlord also claims that a control knob from the kitchen stove was broken which required replacement. The landlord noted that because of the age of the stove, a replacement part was not able to be found and instead replaced the stove with a used stove at \$150.00 (and seeks 50% of the replacement cost).

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, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find that a claim has been established for the filed amount of \$924.56. The landlord has provided in support of her claims an incomplete condition inspection report for the move-out in conjunction with the submission of 14 photographs of the condition of the rental unit which shows the excessive number of holes in the walls as well as the numerous scratch marks. These claims are further supported by the landlord's submissions of receipts/invoices for the amounts claimed. Although the landlord failed to provide receipts/invoices for all of the claim, I find that the landlord's efforts to minimize cost(s) by performing manual labour at either \$25.00 an hour for plumbing and \$20.00 an hour for general labour on repairs is reasonable in the circumstances.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$500.00 security deposit in partial satisfaction of the claim and grant the landlord a monetary order for the difference of \$524.56.

Conclusion

The landlord is granted a monetary order for \$524.56.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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