



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL, MNDL, MNRL

Introduction

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

- a monetary order for unpaid rent, damages and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenants acknowledged receipt of evidence submitted by the landlord. The tenants did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

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Issue to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on August 1, 2014 and ended on October 31, 2017. The tenants were obligated to pay \$2180.00 per month in rent in advance along with a portion of the cable and electricity. The landlord testified that the tenants did not pay the final month's rent or the associated cable and electricity bill. The landlord testified that the unit was so dirty and damaged that she was unable to rent it for November 2017 and seeks that loss of revenue. The landlord testified that the tenants damage the floor throughout the house but was only able to repair the bathroom

floor. The landlord testified that the bathroom was badly damaged. The landlord testified that the tenants did not clean the carpets or the suite at move out. The landlord testified that the tenants' damaged a scooter and lawn mower that she had allowed them to use.

The landlord is applying for the following:

1.	Rent, Hydro, Shaw Cable October 2017	\$2528.00
2.	Loss of November Rent	2180.00
3.	Floors	500.00
4.	Carpet Cleaning	178.50
5.	Cleaning	200.00
6.	Bathroom Renovation	2975.41
7.	Scooter	500.00
8.	Lawn Mower	750.00
9.	Filing Fee	100.00
	Total	\$9911.91

The tenants gave the following testimony. The tenants testified that they agree to the landlords' claim of unpaid rent, electricity and cable for October 2017. The tenants disagree with the rest of the landlords claim. The tenants' testified that they left the home in better condition than when they got it and that the landlord is trying to renovate the home at their expense. The tenants' testified that no walk through inspection was done at the beginning or end of the tenancy.

Analysis

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 arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below. It is worth noting that the landlord was extremely disorganized when presenting her claim. She was unable to answer basic questions or provide answers' to the claim she put forth. Much of her claim lack clarity or logic and was presented in a very disjointed manner. In addition, the landlord would add and subtract items from her claim during the hearing and would alter the amount she was seeking. The landlords' testimony and documentation were in conflict through much of the hearing, when it was; I considered the sworn testimony in coming to her monetary calculations. Residential Tenancy Branch Rules of Procedure 3.7 addresses this issue as follows.

3.7 Evidence must be organized, clear and legible

All documents to be relied on as evidence must be clear and legible.

To ensure a fair, efficient and effective process, identical documents and photographs, identified in the same manner, must be served on each respondent and uploaded to the Online Application for Dispute Resolution or submitted to the Residential Tenancy Branch directly or through a Service BC Office.

For example, photographs must be described in the same way, in the same order, such as: "Living room photo 1 and Living room photo 2".

To ensure fairness and efficiency, the arbitrator has the discretion to not consider evidence if the arbitrator determines it is not readily identifiable, organized, clear and legible.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Rent, Electricity, Cable for October 2017 - \$2528.00.

The tenants agree to this claim, accordingly, I find that the landlord is entitled to \$2528.00.

Loss of Rent November 2017 \$2180.00 Bathroom Repairs and Miscellaneous damage \$2975.41 & floor replacement \$500.00.

The landlord testified that the unit had damage throughout but extensive bathroom damage that left the unit un-rentable for November 2017. The landlord seeks the loss of revenue and the costs to make repairs. The landlord was unaware of what a written condition inspection report was or the obligation to conduct one. It was explained in great detail to the landlord the vital and useful nature of the inspection report. Without the condition inspection report or any other supporting documentation I am unable to ascertain the changes from the start of tenancy to the end of tenancy, if any. The landlord has not provided sufficient evidence to support this portion of his claim and I therefore dismiss this portion of their application.

Carpet Cleaning - \$178.50 & Suite Cleaning \$200.00

The tenant testified that she cleaned that carpet several weeks prior to move out but wasn't opposed to the landlord cleaning them again. Residential Tenancy Policy Guideline 1 addresses this issue and states that a tenant is responsible for shampooing the carpets at the end of tenancy. It further states that a tenant is responsible for leaving a unit in a reasonably clean condition. I find that the tenants did not clean the carpets or the suite to a reasonable condition. The landlord provided documentation to support this claim. Based on the above I find that the landlord is entitled to \$378.50.

Scooter - \$500.00 & Lawn Mower \$750.00

The tenants' adamantly dispute damaging the lawn mower. The tenants testified that it was extremely old and that they rarely used it. The tenants testified that they did damage the scooter and provided an exact replacement of similar condition and have left it at the property. The landlord has not provided sufficient evidence to show that the tenants were negligent or reckless and that they caused the damage to the lawn mower. I find that the tenants have adequately mitigated the damage to the original scooter by providing a replacement scooter. Based on the above, I dismiss this portion of the application.

As the landlord has had some success in their application they are entitled to the recovery of the \$100.00 filing fee.

Conclusion

In summary, the landlord has been successful in the following claims:

Rent, Electricity, Cable for October 2017	\$2528.00
Carpet Cleaning	\$ 178.50
Suite Cleaning	\$200.00
Filing Fee	\$100.00
Total:	\$3006.50

The landlord has established a claim for \$3006.50. I grant the landlord an order under section 67 for the balance due of \$3006.50. This order may be filed in the Small Claims 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: May 23, 2018

Residential Tenancy Branch