



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlords: MNDC MNR FF
Tenants: CNR OLC MNDC

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlords’ Application for Dispute Resolution was made on June 10, 2018 (the “Landlords’ Application”). The Landlords applied for the following relief, pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Tenants’ Application for Dispute Resolution was made on May 11, 2018 (the “Tenants’ Application”). The Tenants applied for the following relief, pursuant to the *Act*:

- an order cancelling a notice to end tenancy for unpaid rent or utilities;
- an order that the Landlords comply with the *Act*, regulations, and/or the tenancy agreement; and
- a monetary order for money owed or compensation for damage or loss.

The Landlords attended the hearing in person. The Tenants were represented at the hearing by A.P. All in attendance provided affirmed testimony.

The Landlords testified the Landlords' Application package was served on the Tenants by Xpresspost and that it was received and signed for by the Tenants on June 21, 2018. Canada Post confirmation of delivery was submitted in support. I find the Tenants received the Landlords' Application package on June 21, 2018.

On behalf of the Tenants, A.P. was unable to recall details confirming service of the Tenants' Application package. However, the Landlords confirmed receipt on May 11, 2018. I find the Tenants' Application package was served on the Landlords on that date.

No issues were raised by the parties with respect to service or receipt of the above documents during the hearing. Pursuant to section 71 of the *Act*, I find the parties were sufficiently served with the above documents for the purposes of the *Act*.

The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing, the parties confirmed the tenancy ended on June 8, 2018. Accordingly, it was not necessary for me to consider the Tenants' Application for an order cancelling a notice to end tenancy for unpaid rent or utilities or that the Landlords comply with the *Act*, regulations, and/or the tenancy agreement.

Issues

1. Are the Landlords entitled to a monetary order for money owed or compensation for damage or loss?
2. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
3. Are the Landlords entitled to recover the filing fee?
4. Are the Tenants entitled to a monetary order for money owed or compensation for damage or loss?

Background and Evidence

The Landlord submitted a copy of the signed tenancy agreement between the parties into evidence. It confirmed the fixed-term tenancy began on August 1, 2017, and was anticipated to continue until July 31, 2018. However, as noted above, the tenancy ended on June 8, 2018. During the tenancy, rent in the amount of \$3,100.00 per month was due on the first day of each month. The Tenants paid a security deposit of \$1,550.00, which the Landlords hold.

The Landlords' Claim

The Landlords' claim was summarized in a Monetary Order Worksheet. First, the Landlords testified the Tenants did not pay rent when due on May 1 and June 1, 2018, and that \$4,000.00 remains outstanding.

In reply, A.P. acknowledged rent was not paid as claimed. However, he testified that family members paid rent for him but were unable to do so because they were in another country. In addition, A.P. testified he did not have a job and could not afford to pay the rent. A.P. also testified that he provided written notice to end the tenancy three months ago, which the Landlords denied. A.P suggested he should not be obligated to pay all of June 2018 rent.

Second, the Landlords claimed \$200.00 for the Tenants' failure to comply with the Strata Corporation Bylaws relating to an occupant's obligations upon moving. The Landlords were fined for the Tenants' failure to do so. A copy of the letter from the Strata Corporation, dated June 14, 2018, was submitted with the Landlords' documentary evidence. Further, the Landlords testified the Tenants signed an addendum in which they agreed to "comply with the Bylaws and Rules". A copy of the addendum was attached to the tenancy agreement submitted by the Landlords.

In reply, A.P. submitted the fine is not appropriate because the rental unit came furnished and only the Tenants' luggage was removed. The Landlords acknowledged the rental unit was furnished but disputed the Tenants only took luggage. Rather, the Landlords testified the Tenants took some furniture and boxes containing personal items.

Third, the Landlords claimed \$57.12 for minor damage and replacement of lightbulbs. The Landlords noted the Tenant agreed to this deduction on the condition inspection report, a copy of which was submitted with the Landlords' documentary evidence. The Tenant did not dispute this aspect of the claim.

Finally, the Landlords claimed \$100.00 in recovery of the filing fee paid to make the Landlords' Application.

The Tenants' Claim

During the hearing, A.P. was asked to provide evidence in support of the Tenants' monetary claim for \$1,750.00. However, A.P. was unable to recall the amount or the basis of the Tenants' claim. Accordingly, the Tenants' Application is dismissed, without leave to reapply.

Analysis

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find:

With respect to the Landlords' claim for \$4,000.00 for unpaid rent, section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

During the hearing, A.P. acknowledged rent was not paid when due. He testified this was because family members were unable to pay his rent and because he was unemployed. However, these reasons are not justifications for withholding rent under the *Act*. With respect to A.P.'s claim that notice to end the tenancy was given to the Landlords three months ago, I find there is insufficient evidence to confirm this claim. In any event, the Tenants entered into a fixed-term tenancy agreement that was to end on July 31, 2018, but vacated on June 8, 2018. Accordingly, I find that rent was due on June 1, 2018, and that \$4,000.00 is outstanding. The Landlords are granted a monetary award of \$4,000.00 for unpaid rent.

With respect to the Landlords' claim for \$200.00 for a Strata fine, I find the Landlords are entitled to recover this amount. The Landlords' testimony was supported by a letter from the Strata Corporation and the tenancy agreement and addendum signed by the Tenants. The Landlords are granted a monetary award of \$200.00 for the Strata fine.

With respect to the Landlords' claim for \$57.12 for minor damage and replacement of lightbulbs, I find the Tenants agreed to this deduction from the security deposit, as confirmed in the condition inspection report submitted by the Landlords. The Landlords are granted a monetary award of \$57.12.

Finally, having been successful, I find the Landlords are entitled to recover the filing fee paid to make the Application. I also find it is appropriate in the circumstances to order that the security deposit be applied in partial satisfaction of the Landlords' claim. Accordingly, pursuant to section 67 of the *Act*, I grant the Landlords a monetary order in the amount of \$2,807.12, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$4,000.00
Strata fine:	\$200.00
Minor repairs and light bulbs:	\$57.12
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$1,550.00)
TOTAL:	\$2,807.12

As noted above, the Tenants' Application is dismissed, without leave to reapply.

Conclusion

The Landlords are granted a monetary order in the amount of \$2,807.12. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

The Tenants' Application is dismissed, without leave to reapply.

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: July 9, 2018

Residential Tenancy Branch