



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0549085 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNRL, FFT

Introduction

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

- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- a Monetary Order for damage, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:47 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served the notice of dispute resolution package by registered mail on April 27, 2018. I find that the tenant was deemed served with this package on May 2, 2018, five days after its mailing, in accordance with sections 89 and 90 of the *Act*.

Issue(s) to be Decided

1. Is the landlord entitled to a Monetary Order for unpaid rent, pursuant to sections 26 and 67 of the *Act*?
2. Is the landlord entitled to a Monetary Order for damage, pursuant to section 67 of the *Act*?
3. Is the landlord entitled to retain the tenant's security deposit, pursuant to section 38 of the *Act*?

4. Is the landlord entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

The landlord provided undisputed testimony that this tenancy began on December 1, 2017 and ended on April 15, 2018. This tenancy was originally a fixed term tenancy set to end July 1, 2018. Monthly rent in the amount of \$850.00 was payable on the first day of each month. A security deposit of \$425.00 was paid by the tenant to the landlord. A tenancy agreement was signed by both parties and entered into evidence.

The tenancy agreement states that the security deposit was originally \$850.00. The copy of the tenancy agreement uploaded into evidence is of poor quality and the hand-written entries to the tenancy agreement are not legible. The landlord testified that the tenant could not pay a security deposit of \$850.00 so it was lowered to \$425.00. The landlord provided undisputed testimony that the \$850.00 was crossed out and \$425.00 was entered for the security deposit amount and that both parties initialed the change.

The landlord testified that on April 2, 2018 the tenant verbally provided notice to end tenancy effective April 15, 2018.

The landlord testified that a move in inspection and inspection report was completed on December 1, 2017 with the tenant and that both parties signed the document. The move in inspection report was entered into evidence. The copy is of poor quality and the tenant's signature is difficult to make out.

The landlord testified that he attended at the subject rental property on April 15, 2018 to complete the move out condition inspection report, but the tenant started yelling at him, threw the keys for the subject rental property at him and refused to complete the move out condition inspection.

The landlord testified that the tenant verbally provided him with his forwarding address on April 27, 2018 during a telephone conversation. The landlord applied for dispute resolution on April 20, 2018.

The landlord testified that the tenant did not pay any rent for April 2018. The landlord is seeking \$425.00 for rent from April 1-15, 2018.

The landlord testified that the subject rental property was filthy after the tenant moved out and that he had to hire professional cleaners to clean the subject rental property. The landlord entered into evidence photographs of the subject rental property which show that the subject rental property was very dirty. The landlord also entered into evidence a receipt from a cleaning company in the amount of \$333.88. The landlord is seeking to recover the cleaning costs.

Analysis

Section 26(1) of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*. Pursuant to section 67 of the *Act*, I find that the tenant owes the landlord \$425.00 in unpaid rent from April 1-15, 2018.

Section 37 of the *Act* states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Based on the photographic evidence of the landlord and the landlord's testimony I find that the rental unit required significant cleaning after the tenant moved out. The landlord submitted into evidence a cleaning receipt totaling \$333.88. I find that the tenant is responsible for the cleaning fee.

Section 38 of the *Act* states that within 15 days after the later of:

- (a) the date the tenancy ends, and
 - (b) the date the landlord receives the tenant's forwarding address in writing,
- the landlord must do one of the following:
- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
 - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I find that the landlord made an application for dispute resolution claiming against the security deposit pursuant to section 38(a) and 38(b) of the *Act*.

Section 72(2) states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit due to the tenant. I find that the tenant paid the landlord a security deposit of \$425.00. I find that the landlord is entitled to retain the tenant's entire security deposit in the amount of \$425.00 in part satisfaction of his monetary claim against the tenant.

As the landlord was successful in his application, I find that he is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

Conclusion

I issue a Monetary Order to the landlord under the following terms:

Item	Amount
April 1-15, 2018 rent	\$425.00
Cleaning fee	\$333.88
Less security deposit	-\$425.00
Filing Fee	\$100.00
TOTAL	\$433.88

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this 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: October 29, 2018

Residential Tenancy Branch