



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, MNRL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage, for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The female Tenant stated that the Tenants received the Landlord's Application for Dispute Resolution from the Landlord sometime in July of 2018.

The teleconference hearing was scheduled for 1:30 p.m. on this date. The female Tenant attended the hearing prior to the scheduled start time but by the time the teleconference was terminated at 11:42 p.m. the Landlord had not appeared. 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 Tenant and I were the only parties who had called into this teleconference.

On July 03, 2018 the Landlord submitted 11 pages of evidence to the Residential Tenancy Branch. The female Tenant stated the Landlord did not serve the Tenants with any evidence in regards to these proceedings. As the Landlord did not attend the hearing to testify regarding service of these documents and the Tenant does not acknowledge receiving them, I am unable to accept this evidence as evidence for these proceedings.

The Tenant was given an opportunity to make submissions regarding the return of the security deposit.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Tenant stated that:

- the rental unit was vacated on August 02, 2018;
- the rent has been paid in full, with the exception of rent owed for the first two days in August of 2018;
- the Tenants paid a security deposit of \$675.00;
- the Tenant believes a pet damage deposit of \$220.00 was paid;
- the Landlord did not return any portion of the deposits;
- the Tenants did not give the Landlord written authority to retain any portion of the deposits; and
- the rental unit was not damaged during the tenancy.

The Landlord applied for compensation of \$3,900.00 for unpaid rent. As the Landlord filed his Application for Dispute Resolution in July of 2018, I find it reasonable to conclude that the Landlord's claim did not include a claim for unpaid rent for any portion of August of 2018.

The Landlord applied for compensation of \$925.00 for damage to the rental unit.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

I find that the Landlord has failed to establish that the Tenants owe rent for any period prior to July 31, 2018. In reaching this conclusion I was heavily influenced by the absence of evidence that refutes the female Tenant's testimony that all the rent has

been paid, except any rent that may be due for the first two days of August of 2018. As the Landlord has failed to establish that the Tenants owe rent for any period prior to July 31, 2018, I dismiss the Landlord's claim for unpaid rent.

I find that the Landlord has failed to establish that the Tenants damaged the rental unit during the tenancy. In reaching this conclusion I was heavily influenced by the absence of evidence that refutes the female Tenant's testimony that the rental unit was not damaged during the tenancy. As the Landlord has failed to establish that the Tenants damaged the rental unit, I dismiss the Landlord's claim for damage to the unit.

I find that the Landlord has failed to establish the merit of the Landlord's Application for Dispute Resolution and I therefore dismiss his application to recover the fee for filing this Application for Dispute Resolution.

As the Landlord has failed to establish a monetary claim, I find that he must return the Tenants' security deposit and pet damage deposit of \$895.00.

Conclusion

The Tenants have established a monetary claim, in the amount of \$895.00, which represents a refund Tenants' security deposit and pet damage. Based on these determinations I grant the Tenants a monetary Order for the \$895.00. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia 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 *Act*.

Dated: November 16, 2018

Residential Tenancy Branch