



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, MNDCL-S, MNRL, FFL

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for a monetary Order for money owed or compensation for damage or loss, 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 Landlord stated that on November 23, 2018 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted in support of the Application were sent to the Tenant, via email. In a decision dated November 19, 2018 a Residential Tenancy Branch Arbitrator granted the Landlords' authority to serve these documents to the Tenant via email.

On the basis of the testimony of the female Landlord I find that the aforementioned documents were served to the Tenant in accordance with the substitute service Order granted on November 19, 2018. I therefore find that these documents were sufficiently served to the Tenant, pursuant to section 71(2) of the *Residential Tenancy Act (Act)*. As these documents have been sufficiently served to the Tenant, this hearing proceeded in the absence of the Tenant.

Issue(s) to be Decided

Are the Landlords 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 Landlords submitted a copy of a tenancy agreement that corroborates their testimony that:

- the tenancy began on March 01, 2017;
- the tenancy was for a fixed term, the fixed term of which ended on February 28, 2018;
- rent of \$1,200.00 was due by the first day of each month; and
- the Tenant paid a security deposit of \$500.00.

The female Landlord stated that:

- the Tenant has not provided a forwarding address to the Landlords;
- the Tenant did not give the Landlords written permission to keep any portion of the security deposit; and
- the Landlords did not return any portion of the security deposit.

The Landlords are seeking compensation for painting the rental unit. The male Landlord stated that the rental unit needed to be painted because the walls and ceiling were stained as a result of the Tenant smoking in the rental unit. The Landlords submitted photographs of the rental unit that corroborates this testimony.

The female Landlord stated that at the start of the tenancy the Tenant agreed that she would not smoke in the rental unit.

In one document the Landlords claimed \$200.00 in labour for painting and \$105.00 for supplies. In a second document the Landlords claimed \$200.00 in labour for painting and \$75.16 for supplies. At the hearing the female Landlord clarified that they are seeking \$200.00 in labour for painting and \$75.16 for supplies.

The male Landlord stated that they paid an individual \$200.00 in cash to paint the rental unit and that they did not receive a receipt for that payment. The female Landlord stated that the Landlords uploaded a receipt for the painting supplies, although I could not find that document in the evidence submitted.

The Landlords are seeking compensation for cleaning the rental unit. The Landlords submitted photographs of the rental unit, which the male Landlord stated were taken at the end of the tenancy, which establish the rental unit required cleaning at the end of the tenancy.

In one document the Landlords claimed \$210.00 in labour for cleaning and \$14.49 for supplies. In a second document the Landlords claimed \$100.00 in labour for cleaning

and nothing for supplies. At the hearing the female Landlord clarified that they are seeking \$210.00 in labour for cleaning and \$14.49 for supplies.

The female Landlord stated that the Landlords uploaded a receipt for the cleaning supplies, although I could not find that document in the evidence submitted. She stated that the Landlords cleaned the rental unit themselves and that it took approximately 8 hours to clean.

The Landlords are seeking compensation for replacing the blinds. The Landlords submitted photographs of the blinds, which the male Landlord stated were taken at the end of the tenancy, which establish the blinds were dirty at the end of the tenancy. The female Landlord stated that the blinds could not be cleaned and needed to be replaced.

The Landlords are seeking compensation of \$129.45 for replacing the blinds, which the female Landlord stated was the cost of new blinds. The female Landlord stated that the Landlords uploaded a receipt for the blinds, although I could not find that document in the evidence submitted.

The Landlords are seeking compensation of \$78.97 for replacing the oven fan. The male Landlord stated that the fan needed to be replaced as it was several damaged by cigarette smoke. The female Landlord stated that the Landlords uploaded a receipt for the oven fan, although I could not find that document in the evidence submitted.

The Landlords have claimed compensation of \$150.00 for time spent installing the blinds and replacing the oven fan. The male Landlord stated that he spent 1 hour replacing the blinds and 4 hours installing the oven fan.

The Landlords are seeking compensation of \$25.00 for replacing an exterior light that the male Landlord stated was damaged during the tenancy. The female Landlord stated that the Landlords did not submit a receipt for the light.

The Landlords are seeking compensation of \$68.09 for unpaid utilities. The Landlords submitted a copy of a utility bill in this amount. The female Landlord stated that the Tenant was required to pay this bill as a term of her tenancy and that she has not paid the bill.

The Landlords are seeking compensation of \$600.00 in unpaid rent. The female Landlord stated that on August 15, 2018 the Tenant sent the Landlords an email in which she informed them she would be moving out of the unit sometime near the

beginning of September; that the rental unit had been vacated by September 05, 2018; that the Tenant paid \$600.00 in rent for September of 2018; that the Tenants advertised the rental unit on two popular websites; and that the rental unit was re-rented for November 01, 2018.

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.

On the basis of the undisputed evidence I find that the Tenant agreed that she would not smoke in the rental unit; that she did smoke in the rental unit; and that the rental unit needed painting as a result of the smoking. I therefore find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the paint damage that occurred as a result of her painting.

In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant whenever compensation for damages is being claimed. I find that the Landlords failed to establish the true cost of repainting the rental units. In reaching this conclusion I was heavily influenced by the absence of any documentary evidence that corroborates the Landlords' submission that they paid \$200.00 to have the unit painted or that they paid \$75.16 for painting supplies. Although the female Landlord contends that the receipt for painting supplies was uploaded as evidence I was unable to find that receipt. As receipts for these costs were apparently not submitted, I dismiss the Landlords' claim for compensation for painting.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit reasonably clean at the end of the tenancy.

Although the female Landlord contends that a receipt for cleaning supplies was uploaded as evidence I was unable to find that receipt. As receipts for these supplies were apparently not submitted, I find that the Landlords have failed to establish the cost of the supplies and I dismiss their claim for compensation for cleaning supplies. I find,

however that the Landlords are entitled to compensation for the 8 hours they spent cleaning the rental unit. I find that \$25.00 per hour is a reasonable rate for cleaning and I therefore grant compensation of \$200.00.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the curtains and oven fan that were damaged during the tenancy.

Although the female Landlord contends that a receipt for the blinds and the oven fan were uploaded as evidence I was unable to find those receipts. As receipts for these items were apparently not submitted, I find that the Landlords have failed to establish the cost of the items and I dismiss their claim for compensation for purchasing blinds and an oven fan. I find, however that the Landlords are entitled to compensation for the 5 hours the male Landlord spent installing these items. Given that installing these items is somewhat more difficult than cleaning I find that \$30.00 per hour is a reasonable rate for cleaning and I therefore grant compensation of \$150.00.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the light that was damaged during the tenancy. As receipts for the light was not submitted, I find that the Landlords have failed to establish the cost of the light and I dismiss their claim for compensation for purchasing a new light.

On the basis of the undisputed evidence I find that the Tenant was required to pay the utility bill that was submitted in evidence and that she has not done so. I therefore find that the Tenant must pay the Landlords \$68.09 for unpaid utilities.

On the basis of the undisputed evidence I find that the Tenant was required to pay monthly rent of \$1,200.00 by the first day of each month; that on August 15, 2018 she informed the Landlords, via email, that she will be vacating the unit sometime near the beginning of September; that the rental unit was vacated by September 05, 2018; and that the Tenant paid \$600.00 in rent for September of 2018.

Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due.

To end this tenancy on August 31, 2018 in accordance with section 45 of the *Act*, the Tenant was required to give notice of her intent to vacate on, or before, July 30, 2018.

Section 53 of the *Act* stipulates that if a tenant gives notice to end a tenancy on a date that is earlier than the earliest date permitted by the legislation, the effective date is deemed to be the earliest date that complies with the legislation. In these circumstances, the earliest effective date of the notice that was given on August 15, 2018 was September 30, 2018, which is the day before the rent was due on October 01, 2018. I therefore find that the notice to end tenancy that was given on August 15, 2018 served to end this tenancy on September 30, 2018.

Section 26 of the *Act* stipulates that a tenant must pay rent when rent is due. As the Tenant had not properly ended this tenancy by September 01, 2018, I find that the Tenant was obligated to pay rent when it was due on September 01, 2018. As the Tenant has paid \$600.00 in rent for September, I find that she still owes \$600.00 in rent for that month.

I find that the Landlords' Application for Dispute Resolution has merit and that the Landlords are entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,118.09, which includes \$200.00 for cleaning; \$150.00 for installing blinds and an oven fan; \$68.09 for unpaid utilities, \$600.00 in unpaid rent, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$500.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlords a monetary Order for the balance \$618.09. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, 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: March 08, 2019