



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC-S, MND-S, MNR-S, FF

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The landlord's agent, J.J. (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that both tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on November 16, 2018 and has submitted copies of the Canada Post Registered Mail Tracking numbers as confirmation. I accept the undisputed evidence of the landlord and find that the tenants have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for damage, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

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 / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on January 1, 2018 on a fixed term tenancy ending on December 31, 2018 and then thereafter as per the submitted copy of the signed tenancy agreement dated December 21, 2017. The monthly rent was \$1,500.00 payable on the 1st day of each month. A security deposit of \$750.00 was paid on December 19, 2017. A condition inspection report for the move-in was completed by both parties dated December 27, 2017.

The landlord seeks a monetary claim of \$5,356.43 which consists of:

\$1,156.43	\$420.00	Pest Control Costs	
	\$500.00	Furniture/Garbage Removal/Dump	
	\$300.00	Cleaning Costs	
	\$436.43	Repairs, new lock installation, paint/fix holes	
\$700.00	Liquidated Damages		
\$3,000.00	Unpaid Rent	\$750.00	Sept 15-30
		\$1,500.00	November 2018
		\$750.00	Nov 1-15

The landlord claims that the tenants vacated the rental unit leaving it dirty and damaged requiring cleaning, repairs and the disposal of furniture/garbage left by the tenants. The landlord also claimed that as the tenants pre-maturely ended the tenancy the liquidated damages of \$700.00 is sought as per the agreed term in the signed tenancy agreement addendum. The landlord provided undisputed testimony that the owner/landlord incurs a cost of \$700.00 for services in obtaining a new tenant. The landlord also clarified that the unpaid rent claim is for ½ of September 2018, October 2018 and ½ of November 2018 as the landlord was successful in re-renting the unit on November 15, 2018. The landlord provided evidence that advertisement ads were posted online for August 3, 2018 and October 9, 2018 in an attempt to re-rent the unit.

In support of these claims, the landlord has submitted:

- A copy of a signed tenancy agreement and addendum.
- A copy of email from tenant, S.T., "Moving Notice" to end tenancy.
- A completed condition inspection report for the move-in.
- 16 photographs showing the condition of the rental unit at the end of tenancy.
- Copies of cleaning receipt, repair invoice, pest control invoice and a dump charge.

Copy of online advertisement postings.

Analysis

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 prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed evidence of the landlord and find on a balance of probabilities that the landlord has justified a monetary claim of \$5,356.43 as claimed. The landlord provided for comparison a completed condition inspection report for the move-in in contrast with photographs of the rental unit at the end of tenancy, invoices/receipts for costs incurred and undisputed evidence that the damage, cleaning and repairs were required as a result of the tenants actions or neglect. I also accept the landlord's evidence that the tenant's breached the fixed term tenancy by pre-maturely ending the tenancy on September 18, 2018 and the landlord was forced to re-advertise the rental unit for rent as soon as possible. The landlord was not successful until November 15, 2018 and suffered a loss of rental income for an approximately 2 month period from September 15, 2018 to November 15, 2018. The landlord made reasonable efforts to mitigate any possible losses.

The landlord having been successful is also entitled to recovery of the \$100 filing fee. I authorize the landlord to retain the \$750.00 security deposit in partial satisfaction of the claim and grant the landlord a monetary order for the difference of \$4,706.43.

Conclusion

The landlord is granted a monetary order for \$4,706.43.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia

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: March 14, 2019

Residential Tenancy Branch