



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL, FFL

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*; and
- Authorization to recover the filing fee for this application pursuant to section 72.

BR, the agent for the landlord (“the landlord”) attended and confirmed that she had permission to speak on behalf of the landlord named in this application, at this hearing.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional fifteen minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant were provided.

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on December 20, 2018 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on December 25, 2018.

The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on December 25, 2018.

Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*; and
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided testimony that the month-to-month tenancy agreement with the tenant began on April 4, 2008 and ended when the tenant vacated on March 22, 2018. Rent was \$550.00 a month payable at the first of the month. The landlord submitted a copy of the tenancy agreement as evidence. The tenant did not provide a security deposit.

The landlord testified that a condition inspection was conducted on moving in and moving out. The landlord submitted a copy of the report as evidence. The unit is noted to be in good condition in all relevant aspects on moving in. On moving out, the report noted that the unit required cleaning and there were holes in the drywall which required repair. The agent of the landlord and the tenant signed the report on both moving in and moving out.

The landlord submitted many photographs taken at the time of the condition inspection report on moving out illustrating the need of the unit's cleaning and showing several holes in the drywall.

The landlord testified the landlord paid for the cleaning of the unit after the tenant vacated and submitted a receipt in the amount of \$567.30 for cleaning costs for which the landlord seeks reimbursement.

The landlord testified the landlord paid for drywall repair costs of \$366.00 after the tenant vacated and submitted a receipt in this amount for which the landlord seeks reimbursement.

The landlord's claim is summarized as follows:

| ITEM | AMOUNT |
|---|-------------------|
| Cleaning costs | \$567.30 |
| Drywall repairs | \$366.00 |
| Reimbursement of the filing fee | \$100.00 |
| Total Monetary Award Requested by Landlord = | \$1,033.30 |

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The purpose of compensation is to put the person who incurred the damage or loss in the same position as if the damage or loss had not occurred. The person claiming compensation must establish **all** the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. Everything reasonable was done to reduce or minimize (mitigate) the amount of the loss or damage as required under section 7(2) of the *Act*.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

In this case, the onus is on the landlords to prove the landlord is entitled a claim for a monetary award.

Reference to each of the landlord's claims follows.

I have considered all the evidence submitted by the landlord, including the receipts, the photographs showing the unit needed cleaning, and the condition inspection report on moving in and moving out in which the tenant agreed the unit needed cleaning.

Taking into account the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred \$567.30 in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

As well, in considering all the above-mentioned evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the drywall needed repairs when the tenant vacated, the tenant is responsible for the damage, the landlord incurred \$366.00 in repair expenses, and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than 'reasonable wear and tear'. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

Therefore, in the absence of any contrary evidence, I accept the landlord's testimony the tenant caused the damage described. I find the landlord has taken reasonable steps to mitigate the damage and has incurred the expenses claimed. I therefore allow the landlord's claims.

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

I grant a monetary order to the landlord in the amount of \$1,033.30. My award to the landlord is summarized as follows:

| ITEM | AMOUNT |
|--|-------------------|
| Cleaning costs | \$567.30 |
| Drywall repairs | \$366.00 |
| Reimbursement of the filing fee | \$100.00 |
| Total Monetary Award Landlord = | \$1,033.30 |

Conclusion

The landlord is entitled to a monetary order in the amount of **\$1,033.30**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) to be 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: April 09, 2019

Residential Tenancy Branch