



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, MNRL, FFL

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on December 12, 2018, (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation;
- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

The Landlords as well as the Tenant and the Tenant's witness J.S. attended the hearing at the appointed date and time, and provided affirmed testimony.

The Landlords testified that they served their Application and documentary evidence package to the Tenant by registered mail on December 15, 2018. The Tenant confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*. The Tenant confirmed that she did not submit and documentary evidence in preparation for this hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Landlords have applied for monetary compensation relating to an outstanding hydro bill in the amount of \$161.36, as well as a strata fine in the amount of \$50.00. During the hearing, the Tenant agreed to compensate the Landlord in full for those portions of their claim. As such, I find the Landlords are entitled to a monetary amount of \$211.36.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on September 1, 2018. Rent in the amount of \$1,750.00 was due to the Landlords each month. The Tenant did not pay a security deposit and the tenancy ended on November 28, 2018. The Landlords provided a copy of the tenancy agreement in support.

The Landlords testified that the parties entered into a periodic month to month tenancy with the Tenant. On November 28, 2018, they noticed that the Tenant had moved out of her residence without notice. The Landlords testified that they expected the Tenant would have provided them with one month notice to end tenancy prior to the Tenant moving out. As a result, the Landlords were unable to rent out the rental unit for the month of December 2018. The Landlords are seeking a monetary order in the amount of \$1,750.00 for lost rent for the month of December 2018.

The Tenant testified that she was renting the rental unit from the Landlords while her primary residence was being repaired. The Tenant stated that she had no indication from the insurance company as to how long the work would take. The Tenant stated that she was under the impression that she was entering into a three month fixed term tenancy. The Tenant's witness J.S. testified that the Tenant had told her that it was a three month fixed term tenancy.

The Tenant testified that on November 26, 2018 she was notified from her insurance company that the work at her primary residence was completed and that she would be able to move back to her home. As her insurance coverage would not compensate her for any additional rent beyond the completion of the work at her primary residence, she decided to move out of the rental unit on November 28, 2018 without notice.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. Pursuant to Residential Tenancy Policy Guideline #16 an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlords to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlords did what was reasonable to minimize the damage or losses that were incurred.

Section 45 of the *Act* states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that (a) is not earlier than one

month after the date the landlord receives the notice, and (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case I find that the Landlords provided sufficient evidence to demonstrate that the parties had entered into a periodic month to month tenancy with the Tenant. The parties agreed that the tenancy ended on November 28, 2019 once the Tenant moved out without formal notice given to the Landlords. As a result, the Landlords suffered a loss of rent for the month of December 2018.

I find that the Landlords have established an entitlement to monetary compensation in the amount of \$1,750.00 for December 2018 rent.

As the Landlords were successful with their Application, I find that they have established an entitlement to the return of their \$100.00 filing fee.

Pursuant to section 67 of the Act, I find the Landlords are entitled to a monetary order in the amount of \$2,061.36, which has been calculated as follows:

Claim	Amount
December 2018 Rent:	\$1,750.00
Hydro Bill	\$161.36
Strata Fine	\$50.00
Filing fee:	\$100.00
TOTAL:	\$2,061.36

Conclusion

The Tenant breached the Act by not providing the Landlord one month notice to end the tenancy. The Landlords are granted a monetary order in the amount of \$2,061.36. This order must be served on the Tenant as soon as possible. If the Tenant fails to comply the monetary order it may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 08, 2019

Residential Tenancy Branch