



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MND-S, MNR, FF

Introduction

This hearing was convened in response to an application by the landlord for a monetary order for unpaid rent and for damage to the unit as well as their filing fee. The hearing was conducted by conference call.

The landlords attended the hearing. The tenant did not attend although served with the application and Notice of Hearing as well as supporting evidence sent by registered mail to the tenant's forwarding address and received by them. The landlord submitted proof of mail registration including the respective tracking number. I also note the tenant uploaded some evidence to this matter. Therefore, I am satisfied the tenant was served with the action against them in accordance with the Act.

Preliminary matters

At the outset of the hearing the landlord orally amended their claim reducing their monetary claim for unpaid rent to \$3050.00, stating that their insurance company compensated them for loss of November 2018 rent revenue in the amount of \$1450.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary order in the amount claimed?

Background and Evidence

The undisputed testimony and evidence of the landlord is that the tenancy started September 01, 2017 and ended sometime in October 2018 upon the tenant abandoning

the rental unit and subsequently notifying the landlord on November 01, 2018 that they had vacated.

The payable rent under the written tenancy agreement was \$2450.00 per month. At the outset of the tenancy the landlord collected a security deposit of \$1225.00 which they retain in trust. The landlord testified that at the start of the tenancy the landlord conducted a mutual condition inspection with respective inspection report submitted into evidence. Via electronic communication the parties agreed to conduct a mutual move out condition inspection on November 04, 2018, however the tenant did not attend at or after the pre-arranged time for the inspection. As a result the landlord conducted their own inspection and then communicated with the tenant as to the damage and other deficiencies found, in attempt to avoid legal action.

The landlord claims that the tenant left the rental unit unclean and damaged. The landlord claimed cleaning costs of **\$126.72** ($123.37 + 3.35$) supported by receipts, replacement of multiple items claimed left with the rental unit at the outset of tenancy and missing at the end in the sum amount of **\$94.91** ($24.97 + 69.94$) supported by receipts, a missing sink stopper and 2 unsalvageable damaged stove oven racks, all supported by receipts in the sum of **\$175.92** ($13.42 + 162.49$). The landlord claimed for hardware to enact repair to damage including wall damage, door damage, and burn damage to acrylic tub in the sum of **\$172.67** ($11.70 + 23.72 + 137.25$) supported by receipts, plumbing related parts for a broken faucet in the sum amount of **\$70.05** ($46.83 + 23.22$) supported by receipts. Additionally the landlord claims **\$1356.73** for re-painting of half the rental unit including damaged areas and areas painted by the tenant without the permission of the landlord and not returned to their original colour, for example a pink painted bedroom, supported by invoice. Lastly, the landlord claims **\$200.00** for a broken screen door and not replaced, for which the landlord did not provide any value particulars.

The landlord further claims unpaid rent for October 20 18 in the amount of **\$2050.00** and mitigated loss of revenue for November 2018 in the amount of **\$1000.00** as the rental unit could not be rented for November due to lack of notice, but moreover due to the unit being unavailable because of remediation of damage cause by the tenant.

The sum of the landlord's monetary claim is \$2196.91.

Analysis

A copy of the Residential Tenancy Act, Regulations and other information are available at www.gov.bc.ca/landlordtenant.

Under the Act, a party claiming losses bears the burden of proof. Moreover, the applicant must satisfy each component of the following test established by **Section 7** of the Act, which states;

Liability for not complying with this Act or a tenancy agreement

7 (1) *If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.*

(2) *A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.*

I find that the test established by Section 7 is as follows,

1. *Proof the loss exists,*
2. *Proof the loss was the result, solely, of the actions of the other party in violation of the Act or Tenancy Agreement*
3. *Verification of the actual amount required to compensate for the claimed loss.*
4. *Proof the claimant followed section 7(2) of the Act by taking reasonable steps to mitigate or minimize the loss.*

I accept the landlord's testimony and documentary evidence submitted as establishing that they incurred the majority of the amounts claimed. However, I find the landlord has not submitted sufficient evidence of a loss related to their claim of a screen door. As a result this portion of their claim is **dismissed** without leave to reapply. I find that in the absence of evidence the purported missing items were part of the rental unit at the outset of the tenancy I must **dismiss** these portions of the landlord's claim without leave to reapply.

Section 26 of the Act states that rent must be paid when due. As a result I grant the landlord unpaid rent for October 2018. I further find the landlord has provided sufficient evidence in support of their partial claim for loss of revenue for November 2018.

As the landlord has largely been successful in their application they are entitled to recover their filing fee. The security deposit will be off-set from the award made herein.

Calculation for a Monetary Order is as follows:

Unpaid rent – October 2018	\$ 2050.00
Loss of revenue – November 2018	1000.00
Plumbing parts	46.83
Faucet repair	23.22
Oven racks – 2	162.49
Sink stopper replacement	13.43
Hardware for door / other repairs	23.72
Hardware for misc. damage	137.25
Porcelain repair	11.70
Cleaning supplies	126.72
Painting	1356.73
Filing fee	100.00
Less <i>tenant's security deposit held in trust</i>	-1225.00
Monetary Order to landlord	\$3827.09

I Order the landlord may retain the tenant's security deposit in the amount of **\$1225.00** in partial satisfaction of their award and **I grant** the landlord a **Monetary Order** under Section 67 of the Act for the balance in the amount of **\$3827.09**. If necessary, this Order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord's application has been granted in the above terms.

This Decision is final and binding.

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 16, 2019

Residential Tenancy Branch