



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, MNRL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 8, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss;
- a monetary order for damage or compensation;
- a monetary order for unpaid rent;
- an order granting recovery of the filing fee; and
- to retain the security deposit.

The Tenant as well as the Landlord attended the hearing at the appointed date and time, and provided affirmed testimony.

The Landlord testified that he served his Application and documentary evidence package to the Tenant by registered mail on January 10, 2019. The Tenant confirmed receipt. The Tenant testified that she served the Landlord with her documentary evidence by regular mail on April 12, 2019. The Landlord 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 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.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent, pursuant to Section 46 of the *Act*?
2. Is the Landlord entitled to a monetary order for compensation, pursuant to Section 67 of the *Act*?
3. Is the Landlord entitled to a monetary order for damage, pursuant to Section 67 of the *Act*?
4. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?
5. Is the Landlord entitled to retain the security deposit, pursuant to Sections 38 and 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on October 1, 2017. The Tenant paid rent in the amount of \$780.00 to the Landlord each month. The Tenant paid a security deposit in the amount of \$390.00. During a previous dispute resolution proceeding the Landlord was granted the recovery of the filing fee, which he was permitted to deduct from the Tenant's security deposit. Currently, the Landlord continues to hold \$290.00 of the Tenant's security deposit. The Tenant provided the Landlord with her forwarding address in writing on December 27, 2018. The Landlord submitted a copy of the tenancy agreement in support.

The Landlord is seeking a monetary award in the amount of \$719.11 which was outlined on a monetary worksheet submitted in support. At the start of the hearing, the Tenant agreed to the Landlord deducting \$55.00 for unpaid rent, as well as \$46.75 for the disposal of a box spring mattress, for a total amount \$101.75.

Further to the mutually agreed upon monetary claims, the Landlord is seeking \$189.00 for carpet cleaning as well as \$228.36 for the replacement of a bathroom sink.

In relation to the carpet cleaning, the Landlord testified that the carpets had been professionally cleaned prior to the commencement of the tenancy. The Landlord stated that at the end of the tenancy, the carpets were left dirty and stained. The Landlord is claiming \$189.00 for carpet cleaning. The Landlord provided a copy of the condition inspection report, pictures of the stained carpets as well as a carpet cleaning receipt in support.

In response, the Tenant confirmed that she did not clean the carpets at the end of the tenancy as she was under the impression that the Landlord intended on doing renovation to the rental unit, which would most likely result in the carpets being replaced anyways. The Landlord stated that the renovation only took place in the kitchen of the rental unit, which did not impact the flooring.

The Landlord is claiming for \$228.36 in relation to the replacement of a bathroom sink. The Landlord stated that at the end of the tenancy, he noticed that the bathroom sink had scratched enamel and that there was a stain that he could not remove. As a result, the Landlord hired a plumber to replace the sink. The Landlord submitted a copy of the condition inspection report, pictures of the sink before and after the tenancy as well as a receipt for the sink replacement in support.

In response, the Tenant stated that the stain could be removed with some deep cleaning, and denied that the enamel had been scratched. The Tenant testified that she did not clean the sink at the end of her tenancy, but does not feel the stain required the complete replacement of the sink.

If successful, the Landlord is also seeking the return of the \$100.00 filing fee paid to make the Application.

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 Landlord 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 Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

During the hearing, the Tenant agreed to the Landlord deducting \$55.00 for unpaid rent, as well as \$46.75 for the disposal of a box spring mattress. As such, I find that the Landlord is entitled to a monetary amount of \$101.75.

The Landlord is seeking \$189.00 for carpet cleaning. I find that the Landlord submitted sufficient evidence to demonstrate that the carpets had been cleaned prior to the tenancy and the tenant stated that she did not clean the carpets at the end of the tenancy. I find that the Landlord has provided sufficient evidence to demonstrate that the carpets were stained and has provided a receipt outlining the cost to clean the carpets. As such, I find that the Landlord has established an entitlement to \$189.00 for cleaning the carpets in the rental unit.

The Landlord is also seeking \$228.36 for the replacement of a bathroom sink as a result of a stain that scratched enamel that could not be removed. The Tenant denied that the enamel was scratched and claimed that the stain could be removed. The Tenant stated that she had not cleaned the sink at the end of her tenancy. I find that the Landlord has provided sufficient evidence to demonstrate that there was a stain left in the sink; however, I'm not satisfied that the sink required complete replacement as a result as there is no evidence before me that the sink was no longer functional. As such, I find that the Landlord has established an entitlement to a nominal monetary amount of \$100.00 for this claim.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord is entitled to retain the remaining portion of the Tenant's security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$200.75, which has been calculated as follows:

Claim	Amount
Mutually agreed upon items:	\$101.75
Carpet cleaning:	\$189.00
Sink stain nominal award:	\$100.00
Filing fee:	\$100.00
<i>LESS</i> remaining security deposit:	-\$290.00
TOTAL:	\$200.75

Conclusion

The Tenant has breached the *Act*. The Landlord is granted a monetary order in the amount of \$200.75. 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: May 1, 2019

Residential Tenancy Branch