



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MND, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, for damage to the unit, site or property, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on March 27, 2019. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in with both parties in attendance.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is there a loss or damage and if so how much?
4. Is the Landlord entitled to compensation for the loss or damage and if so how much?
5. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on August 1, 2016 as a month to month tenancy. Rent was \$1,050.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$525.00 at the start of the tenancy. The Landlord said the Tenants were moved out of the rental unit on November 8, 2018 by bailiffs. The Landlord said a move in condition inspection was completed and signed on July 29, 2016, but a move out condition report was not completed with the Tenants due to the circumstances.

The Landlord said they had a previous hearing in which the Landlord received an Order of Possession. The Landlord continued to say this application is for his monetary claims that resulted from the tenancy ending. The Landlord said he hired bailiffs to move the Tenants out of the rental unit at a cost of \$2,193.39 and the Landlord submitted a paid receipt for this claim. Further the Landlord said the Tenants did not pay the November 2018 rent and they were in the unit until November 8, 2018 so he has lost rental income of \$1,050.00. The Landlord requested compensation of \$1,050.00 for the lost rental income of \$1,050.00. As well, the Landlord said that he and his wife worked approximately 20 hours cleaning and repairing the property and the Tenant took a TV receiver box that he was charged \$150.00 for. The Landlord said if the Tenant returned the box he would be reimbursed for the cost of the box. The Landlord requested \$1,100.00 as compensation for cleaning and repair work to the rental unit.

The Landlord said his total claim is for \$4,343.39 plus the \$100.00 filing fee and he is requesting to retain the Tenants' security deposit which was \$525.00 but in the last hearing he was ordered to deduct the \$100.00 filing fee from it. The security deposit remaining is \$425.00.

The Tenant said they requested a review of the decision that resulted in the issuing of the Order of Possession but the bailiffs came before she had completed the application process. As a result the bailiffs moved the Tenants out of the rental unit on November 8, 2018.

Further the Tenant said the Landlord has not provided any evidence like receipts or invoices for the cleaning and repair work he did so the Tenant does not believe the Landlord has proven these claims. The Tenant requested the damage claim of \$1,100.00 be dismissed.

With regards to the November rent the Tenant said she is willing to pay half the month's rent in the amount of \$525.00 as they did live in the unit for part of November 2018, but they were moved out at much distress and expense to her family.

In closing the Tenant said this has been a very difficult and expensive experience for her family.

The Landlord said in closing that he submitted many pictures of the damages and clean up work that he and his wife did. The Landlord requested that his claims be awarded.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the Landlord's testimony that the Tenants did occupy the rental unit during the month of November 2018; therefore the Tenants are responsible for the November 2018 rent of \$1,050.00. I award the Landlord \$1,050.00 as compensation for the unpaid November 2018 rent.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has provided receipts to prove and verify his claim regarding the bailiff costs; therefore I grant the Landlord his claim of \$2,193.39 which represents the bailiff and court costs.

With regard to the Landlord's claims for cleaning and damages I find there are no receipts or invoices to prove an actual loss occurred or that loss was verified. I do accept the Landlord's testimony and photographic evidence that he and his wife worked at the rental unit for approximately 20 hours cleaning and repairing damage after the Tenants were moved out. Consequently I award the Landlord 20 hours of labour at \$20.00/hour in the amount of \$400.00 as full satisfaction of the cleaning and repairs.

Further I accept that the Tenant did not return the TV box as the bailiffs packed it, but as the Landlord did not submit a receipt or invoice I dismiss his claim for \$150.00 for the TV box. Given that the Tenant said they have the TV box, I order the Tenants to return the TV box within 15 days so that the Landlord can recoup his alleged loss.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

Unpaid Rent:	\$ 1,050.00
Bailiff costs	\$ 2,193.39
Landlord's labour	\$ 400.00

	Recover filing fee	\$ 100.00
	Subtotal:	\$ 3,743.39
Less:	Security Deposit remaining \$525.00 less \$100.00 (filing fee)	\$ 425.00
	Subtotal:	\$ 425.00
	Balance Owing	\$ 3,318.39

Conclusion

A Monetary Order in the amount of \$3,318.39 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) 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: May 14, 2019

Residential Tenancy Branch