



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: FFL MNDL MNRL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- a monetary order for unpaid rent and compensation for monetary loss or money owed under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

JS ("landlord") appeared as agent for the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing and evidence. In accordance with sections 88 and 89 of the Act, I find that the tenant duly served with the landlord's application and evidence. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and losses?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This month-to-month tenancy began in January of 2014. Monthly rent was set at \$662.00, payable on the first of the month. No security deposit was held for this tenancy. The tenant moved out on or about February 27, 2017, after receiving a 10 Day Notice on February 8, 2017 from the landlord for failing to pay rent for February 2017.

The landlord is requesting monetary compensation as follows:

Unpaid Rent for February 2017	\$662.00
Cleaning and Removal of Tenant's Items	576.76
Total Monetary Award Requested	\$1,238.76

The landlord's agent testified that the tenant did not give proper notice that she would be moving out. The landlord testified that the tenant vacated the rental unit after being served with the 10 Day Notice for Unpaid Rent, and moved out without properly cleaning the rental unit. The landlord provided a copy of the move-in and move-out inspection reports, photos, an accounts receivable report, as well as documentation to show that the tenant was given an opportunity to attend the move-out inspection.

The tenant does not dispute that she did not pay any rent for February 2017. The tenant questioned why the landlord filed their application on February 5, 2019, when she had moved out on almost 2 years ago. The landlord responded that they had filed their application within the time limit after confirming the amounts owed by the tenant.

The tenant testified that she was present for the move-out inspection, but that the document was not completed until after she had left. The tenant testified that she did clean the rental unit, but forgot some items as she was rushed out.

Preliminary Issue— Limitation Period for Filing of Landlord's Application for Dispute Resolution

The tenant expressed concern that the landlord waited almost 2 years to file their application. The tenant moved out on or about February 27, 2017. The landlord filed this application for dispute on February 5, 2019.

Section 53 of the *Act* reads:

Latest time application for dispute resolution can be made

53 (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

(2) Despite the Limitation Act, if an application for dispute resolution is not made within the 2 year period, a claim arising under this *Act* or the tenancy agreement

in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).

(3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

As the landlord filed this application on February 5, 2019, I find that that this application was made within the 2 year limitation period as this tenancy ended on or about February 27, 2017. Under these circumstances, the landlord's application was considered.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) *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 find that the tenant was obligated to pay the rent as per the tenancy agreement and the Act. I find that the tenant admitted that she did not pay rent as required for the month of February 2017. On this basis, I allow the landlord's monetary claim for unpaid rent in the amount of \$662.00.

Section 37(2)(a) of the Act stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged condition except for reasonable wear and tear. I have reviewed the landlord's monetary claim for losses, and have taken in consideration of the evidentiary materials submitted by the landlord, as well as the sworn testimony of both parties.

I find that the tenant did not dispute the fact that she had left some items behind at the end of this tenancy. I also accept the landlord's evidence, which was supported by the move in and move out inspection reports, that the tenant failed to properly clean the rental unit and remove her personal belongings. I find that the landlord suffered a monetary loss due to the tenant's failure to comply with section 37(2)(a) of the Act. On this basis, I allow the landlord to recover the cost of cleaning and removal as claimed.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the landlord was successful in their application, I find that the landlord is entitled the \$100.00 filing fee paid for this application.

Conclusion

I issue a Monetary Order in the amount of \$1,338.76 in the landlord's favour as set out in the table below.

Unpaid Rent for February 2017	\$662.00
Cleaning and Removal of Tenant's Items	576.76
Filing Fee	100.00
Total Monetary Award	\$1,338.76

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: June 26, 2019

Residential Tenancy Branch