



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on February 15, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- a monetary order for money owed or compensation for damage or loss;
- an order that the Landlord be permitted to apply the security deposit held to any monetary award granted; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord testified that the Application package was served on the Tenant in person on February 28, 2019. Submitted into evidence was a signed Proof of Service document confirming service in this manner was witnessed by J.R. I find the Tenant was served with and received the Application package on February 28, 2019. However, the Landlord confirmed the Application package was not served on J.H., the son of D.H., who is a minor and was named as a party. Therefore, pursuant to section 64(3) of the *Act*, and with the Landlord's agreement, the Application is amended to remove the J.H. as a party. The Tenant did not submit documentary evidence in response to the Application.

The Landlord was provided with a full 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit?
2. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
3. Is the Landlord entitled to retain the security deposit held in partial satisfaction of the claim?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on December 15, 2018. The Landlord testified the tenancy ended when the Tenant vacated the rental unit without notice on February 24, 2019. During the tenancy, rent was due in the amount of \$1,825.00 per month. The Tenant was obligated to pay BC Hydro charges. The Landlord confirmed the Tenant paid a security deposit of \$912.50, which the Landlord holds.

The Landlord's claims are set out in the Application. First, the Landlord claims \$300.00 for general cleaning and repairs required in the rental unit at the end of the tenancy. In support, the Landlord submitted photographs of a scratched window sill, three holes in a wall, and dog vomit. The Landlord stated that she and a friend spent the better part of a day completing the general cleaning and repairs required to get the unit re-rented.

Second, the Landlord claims \$430.46 for unpaid BC Hydro charges. In support, the Landlord submitted an email statement dated February 8, 2019, in the amount of \$430.46. The statement was forwarded to the Tenant via email on February 14, 2019, requesting payment. The Landlord testified she has not received any payment from the Tenant at the date of this hearing.

Third, the Landlord claims \$2,075.00 in unpaid rent. According to the Landlord, the Tenant owes \$250.00 for January 2019 rent and \$1,825.00 for February 2019 rent. The Landlord testified she has not received any payment from the Tenant at the date of this hearing.

Finally, the Landlord also sought to recover the filing fee paid to make the Application, and an order permitting her to retain the security deposit held in satisfaction of the claim.

Analysis

Based on the unchallenged and 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*. 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.

With respect to the Landlord's claim for \$300.00 for cleaning and repairs, section 37 of the *Act* confirms that a tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. In this case, I find there is sufficient evidence before me to conclude the Tenant did not leave the rental unit reasonably clean, and caused damage beyond reasonable wear and tear. I also find the amount claimed to be reasonable in the circumstances for the work performed. Therefore, I find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$300.00.

With respect to the Landlord's claim for \$430.46 unpaid utility charges, I find there is sufficient evidence before me to grant the relief sought. The Landlord provided a copy of the tenancy agreement, which confirmed these charges were not included in rent. The Landlord also provided a copy of a BC Hydro invoice, which was forwarded to the Tenant for payment on February 14, 2019. I find the Landlord has demonstrated an entitlement to a monetary award in the amount of \$430.46.

With respect to the Landlord's claim for \$2,075.00 for unpaid rent, I find the Landlord has demonstrated an entitlement to a monetary award in the amount claimed.

Having been partially successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I also order that the Landlord is entitled to retain the 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 \$1,992.96, which has been calculated as follows:

Claim	Amount
Cleaning and repairs:	\$300.00
Unpaid BC Hydro charges:	\$430.46
Unpaid rent:	\$2,075.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$912.50)
TOTAL:	\$1,992.96

Conclusion

The Landlord is granted a monetary order in the amount of \$1,992.96. The order 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: June 11, 2019

Residential Tenancy Branch