



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNRL-S, FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The landlord applied for a monetary order for damage to the unit, site or property, for authorization to keep all or part of the security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The hearing process began on March 12, 2019, and was adjourned twice. Two interim decisions were issued dated March 13, 2019, and May 6, 2019, which should be read in conjunction with this decision. On June 20, 2019 the parties reconvened and after an additional 30 minutes of testimony the hearing concluded.

Two agents for the landlord ("agents"), the tenant, and a support person for the tenant DJ ("support person") attended the teleconference hearing. At the outset of the hearing, the hearing process was explained to the parties. During the hearing, the parties were affirmed and neither party raised concerns regarding the service of documentary evidence. The tenant did not serve any documentary evidence in response to the landlord's application. The parties were given the opportunity to ask questions about the hearing process during the hearing. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties and

that any applicable orders would be emailed to the appropriate party for service on the other party.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on July 1, 2017 and ended on January 14, 2019, which was the approximate date the parties agreed the rental unit keys were returned. There is no dispute that the tenant was admitted to hospital on December 25, 2018 and was released April 19, 2019. Originally, monthly rent was \$1,400.00 per month and due on the first day of each month. Eventually, rent was increased to \$1,456.00 per month as of July 1, 2018, according to the parties. The tenant paid a security deposit of \$700.00, which the landlord continues to hold.

The landlord's monetary claim of \$1,587.25 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid December 2018 rent	\$1,456.00
2. Carpet cleaning	\$131.25
TOTAL	\$1,587.25

Regarding item 1, there is no dispute that the tenant failed to pay December 2018 rent of \$1,456.00 before an event took place that resulted in the tenant being in hospital between December 25, 2018 and April 19, 2019. The landlord is seeking the unpaid rent of \$1,456.00.

Regarding item 2, the landlord has claimed \$131.25 for the cost of carpet cleaning. The support person confirmed that carpet cleaning was not done before the rental unit was

vacated. The landlord submitted an invoice in evidence for the carpet cleaning cost of \$131.25.

Analysis

Based on the documentary and digital evidence, the testimony of the parties and on the balance of probabilities, I find the following.

Test for damages or loss

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 in sections 7 and 67 of the *Act*. Accordingly, 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 the matter before me, the landlord bears the burden of proof to prove all four parts of the above-noted test for damages or loss.

Item 1 – Firstly, there is no dispute that the tenant failed to pay December 2018 rent of \$1,456.00. Section 26 of the *Act* applies and states:

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.

[Emphasis added]

The support person requested to have the unpaid rent forgiven in exchange for the tenant's security deposit on compassionate grounds. The agents explained that they

were unable to accommodate the request of the support person as there are so many sad situations that are equally devastating and heartbreaking and that the landlord is operating a business.

Given the above, I find the landlord has met the burden of proof and I find the tenant breached section 26 of the *Act* by failing to pay December 2018. Therefore, I grant the landlord **\$1,456.00** as claimed for unpaid rent for December 2018.

Item 2 – The landlord has claimed \$131.25 for the cost of carpet cleaning. As the support person confirmed that carpet cleaning was not done the end of the tenancy and given the carpet cleaning receipt of \$131.25 provided by the landlord, I find the tenant breached section 37 of the *Act*. Section 37 of the *Act* applies and states in part:

Leaving the rental unit at the end of a tenancy

37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear,

[Emphasis added]

In addition, Residential Tenancy Branch (“RTB”) Policy Guideline 1 indicates that it is the responsibility of the tenant for tenancies over one year to have the carpets shampooed or steam cleaned at the end of the tenancy. As the tenancy was over one year, and taking into account the support person confirmed that the carpets were not cleaned, I find the landlord has met the burden of proof for this item and I grant the landlord **\$131.25** for carpet cleaning as claimed.

As the landlord’s application was successful, I grant the landlord **\$100.00** in full recovery of the cost of the filing fee pursuant to section 72 of the *Act*.

Monetary Order – I find that the landlord has established a total monetary claim of **\$1,687.25** comprised of \$1,456.00 for item 1, \$131.25 for item 2, plus the \$100.00 filing fee. I authorize the landlord to retain the tenant’s full security deposit of **\$700.00**, which has accrued no interest to date, in partial satisfaction of the landlord’s monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act* for the balance owing by the tenant to the landlord in the amount of **\$987.25**.

Conclusion

The landlord's claim is fully successful.

The landlord has established a total monetary claim of \$1,687.25. The landlord has been authorized to retain the tenant's full \$700.00 security deposit in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act* for the balance owing by the tenant to the landlord in the amount of \$987.25. Should the landlord require enforcement of the monetary order, the order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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