



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN PROPERTIES
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’ agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on June 27, 2019, Canada post tracking numbers were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act. Refusal or neglect to pickup the packages does not override the deemed service provision of the Act.

The landlord’s agent appeared gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on February 1, 2019. Rent in the amount of \$1,675.00 was payable on the first of each month. The tenants paid a security deposit of \$837.50.

On March 20, 2019, the landlord's application for a direct request hearing was granted and the landlord was granted an order of possession and a monetary order for unpaid rent for February 2019. The tenants vacated on March 25, 2019.

The landlord claims as follows:

a.	Unpaid rent for March	\$1,675.00
b.	Damage to plumbing	\$ 431.52
c.	Cleaning	\$ 401.15
d.	Missing keys and laundry card	\$ 125.00
e.	Filing fee	\$ 100.00
	Total claimed	\$2,732.67

The landlord's agent testified that the tenants did not pay rent for March 2019.

The landlord's agent testified that the tenants caused damage by plugging the toilet with wet wipes causing a blockage. The agent stated that they had to hire a plumber to unclog the fixture. Filed in evidence are photographs and a receipt.

The landlord's agent testified that the tenants did not clean the rental unit at the end of the tenancy and it was left dirty. The agent stated that they had to pay the cleaners to clean the rental unit. Filed in evidence are photographs and a receipt.

The landlord's agent testified that the keys and laundry card were not returned, and they seek to recover the replacement costs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

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 accept the undisputed evidence of the landlord's agent that the tenants failed to pay rent for March 2019. I find the tenants breached section 26 of the Act, and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$1,675.00**.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

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

leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the undisputed evidence of the landlord's agent that the tenants caused a blockage in the toilet from disposal of items that are not meant to be flushed. I find the actions of the tenants was neglectful and this caused losses to the landlord. I find the tenants breached the Act, when they failed to repair the blockage they caused. Therefore, I find the landlord is entitled to recover the cost of the plumber in the amount of **\$431.52**.

I accept the undisputed evidence of the landlord's agent that the tenants did not clean the rental unit to a reasonable standard. I find the tenants breached the Act, when they failed to leave the unit reasonably clean. Therefore, I find the landlord is entitled to recover cleaning costs in the amount of **\$401.15**.

I accept the undisputed evidence of the landlord's agent that the keys and laundry card were not returned. I find the tenants breached the Act, when they failed to return all keys that give access to the premise. Therefore, I find the landlord is entitled to recover the amount of **\$125.00**.

I find that the landlord has established a total monetary claim of **\$2,732.67** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$637.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$2,095.17**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: October 03, 2019

Residential Tenancy Branch