



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding British Columbia Housing Management
Commission and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on October 7, 2019. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, for damage or loss under the Act.

The Landlord and the Tenant both attended the hearing. All parties provided testimony. Both parties confirmed receipt of each other's evidence.

Both parties were provided the 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit or for damage or loss under the Act?

Background and Evidence

Both parties agree that monthly rent was set at \$540.00 per month as was due on the first of the month. The parties agree that the Landlord did not hold a security or pet

deposit. The parties also confirmed that the tenancy ended on November 30, 2018, and that a move-out inspection was done on December 7, 2018.

The Tenant stated that she brought a friend with her as a witness. The Tenant submitted a copy of a written statement from her friend speaking to her recollection of the move-out inspection.

The Landlord asked to remove the first item from her monetary order worksheet (cleaning fees), but she wanted to pursue the remaining items. They are as follows:

- \$250.00 – Debris Removal Fees

The landlord stated that the Tenant left behind a couch, a bar table, and chairs. The Landlord stated that she had to pay a company to come and dispose of these items at a cost of \$250.00. The Landlord included photos of the items, and an invoice showing what it cost.

The Tenant does not dispute that she left these items, but stated that she was told by the Landlord's agent at the move-out inspection that she didn't have to worry about the couple of leftover items. The Tenant stated that the agent offered, because he had a truck and a trailer, to take care of the remaining items by disposing of them for the Tenant, and said "not to worry about it". The Landlord who was present at the hearing was unaware of this conversation, and felt that it was unlikely that this was promised to the Tenant when the move-out inspection was completed.

The Tenant provided a copy of a written statement from her friend who was present at the move out inspection. She stated that she heard the agent tell the Tenant that he had a truck and trailer and was doing a dump run anyways, so the Tenant need not worry about the few leftover items.

- \$100.00 – Drywall Repair

The Landlord stated that the Tenant hung a TV on the wall and damaged the drywall. The Landlord stated that it cost her \$100.00 to repair the drywall. Photos and an invoice was provided.

The Tenant does not dispute this amount and acknowledged that she is responsible for this damage.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/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 everything possible to minimize the damage or losses that were incurred.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

Based on all of the above, the evidence and the testimony provided at the hearing, I find as follows:

- \$250.00 – Debris Removal Fees

I find the undisputed evidence before me is that the Tenant left behind a few furniture items, which the Landlord had to dispose of. The issue is whether or not there was a verbal agreement whereby the Landlord would dispose of the items for the Tenant, at no charge. I note the agent for the Landlord who attended the hearing was different than the agent who did the move out inspection at the end of the tenancy. I note the agent who was present at the hearing did not have direct knowledge of what was said, but only took the position that it was unlikely the other agent would promise this to the Tenant.

In contrast to this, the Tenant provided a detailed account of what she and the other agent discussed at the move-out inspection, and provided a written statement from her friend and witness who was also present for the walk-through. I find the Tenant has provided more compelling evidence that she made arrangements with the agent with respect to getting rid of her leftover furniture items. I do not find the Landlord has sufficiently demonstrated that the Tenant is responsible for this item. I dismiss this item, in full.

- \$100.00 – Drywall Repair

The Tenant does not dispute this amount and acknowledged that she is responsible for this damage. I award this amount, in full.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was partly successful in this hearing, I also order the Tenant to repay the \$100.00 fee the Landlord paid to make the application for dispute resolution.

Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$200.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: October 07, 2019

Residential Tenancy Branch