



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LESCA HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL MNDL-S MNRL FFL

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for authority to retain the tenant's security deposit, a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation, for unpaid rent, and for alleged damage by the tenant to the rental unit, and for recovery of the filing fee paid for this application.

The landlord's agent (hereafter, "landlord") attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on July 10, 2019. The landlord provided the copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing, shown on the style of cause page of this Decision.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The hearing process was explained to the landlord and they were given an opportunity to ask questions about the hearing process. Thereafter, the landlord was provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and for other monetary compensation, and to recover the filing fee?

Background and Evidence

The evidence of the landlord shows that the parties signed a written tenancy agreement for this rental unit, for a one year, fixed term beginning on April 17, 2019, that monthly rent due under the tenancy agreement was \$2,950.00, and that the tenant paid a security deposit of \$1,475.00.

The landlord submitted they were informed later on by the strata council that this same tenant had also rented another unit in the same condo building, after seeing a duplicate name on different strata council Forms K.

The landlord said that the tenant illegally sublet the rental unit for another person, unbeknownst to them at the time, after signing the written tenancy agreement.

The landlord submitted further that the person living in the rental unit here moved out on June 19, 2019, according to information provided to them, and moved into the other unit occupied by the tenant.

The landlord confirmed that they have retained the tenant's security deposit.

The landlord's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. BC Hydro	\$44.67
2. Strata charges and re-keying charges	\$370.32
3. June rent, NSF	\$2,950.00
4. Damage to pool table	\$358.40
5. Cleaning	\$47.25
6. Disposal fee	\$157.50
7. Loss of rent, July 2019	\$2,950.00
8. Filing fee	\$100.00
TOTAL	\$6,978.14

In support of their application, the landlord submitted the following:

BC Hydro-

The landlord submitted that the tenant was to put the BC Hydro account immediately into his name, but failed to do so, causing the landlord to incur that cost.

The landlord submitted a copy of the hydro bill.

Strata charges and re-keying charges-

The landlord said that the tenant is responsible for the missing parking pass for \$50.00. In addition, the landlord submitted that the tenant duplicated the keys and cloned the access fob, which required the tenant to have the locks re-keyed and to purchase a new fob.

The landlord submitted the invoices for the expenses.

June rent, NSF-

The landlord submitted that the tenant never paid the rent for June 2019, due under the tenancy agreement, as the cheque was returned due to insufficient funds.

Damage to pool table-

The landlord said they were no longer claiming this amount and asked that it be removed.

Cleaning-

The landlord submitted that the tenant failed to properly and reasonably clean the rental unit, which required two hours of cleaning. The landlord submitted a copy of the invoice for cleaning and the condition inspection report ("CIR") showing the unclean state, also showing that the tenant failed to attend the move-out inspection.

Removal and Disposal fee-

The landlord submitted that the tenant failed to remove all his belongings and garbage, which in turn required the landlord to hire a company to remove and dispose of those items. There was also a recycling fee for the disposal.

The landlord submitted a copy of the invoice.

Loss of rent, July 2019-

The landlord submitted that they did not have any information when the tenant or sub-tenant vacated the rental unit until it was too late to attempt to find a new tenant for July 2019. As a result, due to the lack of notice by the tenant, the landlord suffered a loss of rent revenue for that month.

The landlord's additional relevant evidence included photographs of the condition of the rental unit.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlord in this case, has the burden of proof to substantiate their claim on a balance of probabilities.

As to the costs claimed by the landlord associated with cleaning, removal, and disposal, Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged except for reasonable wear and tear.

BC Hydro-

I find the landlord submitted sufficient, unopposed evidence that the tenant was obligated to pay for his hydro costs by putting the account into his name and failed to do so. I therefore find the landlord is entitled to a monetary award as claimed of \$44.67.

Strata charges and re-keying charges-

I find the landlord submitted sufficient, unopposed evidence that they were required to re-key the locks and replace the parking pass to the strata council and to replace the access fobs, as I accept the undisputed evidence of the landlord that the tenant duplicated the keys, cloned the access fob, and failed to return the parking pass. I therefore find the landlord is entitled to a monetary award as claimed of \$370.32.

June rent, NSF-

I find the tenant owed monthly rent under the terms of the written tenancy agreement he signed and that he failed to pay the monthly rent for June 2019, as the cheque was returned to the landlord due to insufficient funds. I therefore find the landlord is entitled to a monetary award as claimed of \$2,950.00.

Cleaning-

I find the landlord submitted sufficient, unopposed evidence that the rental unit required cleaning as the tenant failed to leave the rental unit reasonably clean. I find the landlord's costs to be reasonable and I therefore find the landlord is entitled to a monetary award as claimed of \$47.25.

Removal and Disposal fee-

I find the landlord submitted sufficient, unopposed evidence that the rental unit required clearing out as the tenant failed to remove his belongings and garbage. I find the landlord's costs to be reasonable and I therefore find the landlord is entitled to a monetary award as claimed of \$157.50.

Loss of rent, July 2019-

Under section 45(2) of the Act, a tenant must give written notice to the landlord ending a fixed term tenancy at least one clear calendar month before the next rent payment is due and that is not earlier than the end of the fixed term, or May 31, 2020, in this case.

I find the landlord submitted sufficient evidence to show that the tenant owed the monthly rent of \$2,950.00 for July 2019, under the terms of the fixed term, written tenancy agreement and failed to notify the landlord when they vacated. As a result, I find that due to the actions of the tenant, the landlord suffered a loss of rent for the month of July 2019. I therefore find the landlord is entitled to a monetary award as claimed of \$2,950.00.

I grant the landlord recovery of their filing fee of \$100.00, due to their successful application and pursuant to section 72(1) of the Act.

Due to the above, I grant the landlord's application and find they are entitled to a total monetary award of \$6,619.74, comprised of BC Hydro for \$44.67, strata charges and re-keying/fob replacement charges for \$370.32, unpaid rent for June 2019 of \$2,950.00, cleaning for \$47.25, removal and disposal fee of \$157.50, loss of rent for the month of July 2019 of \$2,950.00, and the filing fee of \$100.00.

At the landlord's request, I allow them to retain the tenant's security deposit of \$1,475.00 in partial satisfaction of their monetary award of \$6,619.74.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$5,144.74.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are subject to recovery from the tenant.

Conclusion

The landlord's application for monetary compensation is granted, has been authorized to retain the tenant's security deposit of \$1,475 and they have been awarded a monetary order for the balance due, in the amount of \$5,144.74.

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 21, 2019

Residential Tenancy Branch