



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened as a result of the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlords applied for authority to retain the tenant's security deposit, a monetary order for alleged damage by the tenant to the rental unit, and for recovery of the filing fee paid for this application.

The landlord, RM, 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 August 19, 2019. The landlord provided the Tracking Number to confirm this mailing, which is 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 landlords' 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 he was given an opportunity to ask questions about the hearing process. Thereafter, the landlord was provided the opportunity to present his 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 ("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 retain the tenant's security deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted that this tenancy began on July 1, 2015, and that it ended on or about October 31, 2018. The landlord provided a copy of the tenancy agreement.

The landlord said that the monthly rent was \$900.00 and they collected a security deposit of \$450.00, which they have retained, having made this application against it upon receipt of the tenant's written forwarding address.

The landlords' monetary claim listed in his application is \$450.00; however, the landlord said that he sustained more than that in costs to repair the damage left by the tenant and in cleaning. The landlord submitted receipts totalling \$822.60 for repair work, but that cost did not include cleaning the rental unit.

The landlord testified that the tenant failed to clean the rental unit and it was in such a bad condition, the rental unit was not suitable for a new tenant.

The landlord provided that he did not make a claim for all his actual costs in cleaning and repair, as he thought he could not get anything further from the tenant. The landlord said he would like to keep the tenant's security deposit in satisfaction of the claim.

The landlord's additional relevant documentary evidence included photographs of the rental unit at the end of the tenancy, which showed damage to the rental unit, the unclean condition of the rental unit, and bags of trash.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

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.

In light of the tenant's failure to appear to provide a rebuttal to the landlord's evidence, despite being duly served, I accept the landlord's undisputed evidence.

Cleaning, repair and restoration-

As to the claim of the landlord, 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.

I find the landlord submitted sufficient, unopposed evidence that the rental unit required extensive cleaning as the tenant failed to leave the rental unit reasonably clean. I also find the landlord submitted sufficient evidence to demonstrate that the tenant damaged the rental unit during the tenancy, which required repairing.

Upon examination of the invoice evidence submitted by the landlord and in comparison to the photographs, I find the landlord's costs which exceeded the amount of the security deposit of \$450.00, to be reasonable.

I therefore find the landlord is entitled to and I grant him a monetary award as claimed of \$450.00.

I direct the landlord to retain the tenant's security deposit in satisfaction of his monetary award.

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

I therefore grant the landlord a monetary order for the amount of \$100.00.

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, he has been authorized to retain the tenant's security deposit of \$450.00 in satisfaction of his monetary claim. The landlord has been granted a monetary order for \$100.00 for the cost of his filing fee.

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 8, 2019

Residential Tenancy Branch