



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICE LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND-S, MNDC-S, MNR-S, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agents (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord provided undisputed affirmed testimony that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 18, 2019 and again via Registered Mail with the evidence on December 11, 2019. The landlord submitted copies of the Canada Post Customer Receipt(s) and Tracking labels as confirmation.

I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served. Although the tenant failed to attend the hearing, the tenant is deemed sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage, for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on September 1, 2018 on a fixed term tenancy ending on August 31, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated August 16, 2018. The monthly rent was \$1,100.00 payable on the 1st day of each month. A security deposit of \$550.00 was paid on August 16, 2018.

The landlord seeks a monetary claim of \$2,048.00 which consists of:

\$105.00	Flea Inspection
\$231.00	Carpet/Draperies Cleaning
\$341.25	Junk Removal
\$521.64	Repairs/Maintenance
\$25.98	Ballast
\$200.00	Rent, August 2019

The landlord claims that the tenant failed to have flea inspection done forcing the landlord to incur this expense. The landlord stated that the tenant had agreed to steam cleaning the carpets and clean the drapes as part of the signed tenancy agreement. The landlord noted during the hearing that the carpets and drapes were left dirty requiring cleaning as shown by the submitted photographs. The landlord stated that the tenant vacated the rental unit leaving "junk" which the landlord was forced to remove and incur an expense. The landlord incurred an expense to replace a ballast

The landlord claims that the unit was left damaged by the tenant requiring repairs as shown in the submitted photographs and the handyman's invoice for repairs. The landlords stated that there was wall damage, a damaged heat vent cover, hole in the ceiling, scuff marks on the walls and a damaged closet door. The landlord also stated that the ballast for a light was damaged by the tenant that required replacement.

The landlord also seeks recovery of \$100.00 in rental arrears for August 2019. The landlord relies upon the "Account Statement" dated September 9, 2019 which shows a balance owing of \$100.00.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find that the landlord has established a monetary claim for the following:

\$231.00	Carpet and Drapery Cleaning
\$341.25	Junk Removal
\$521.64	Repairs/Maintenance
\$100.00	Rent, August 2019

The landlord has established these claims based upon the direct evidence, photographs of the rental unit at the end of tenancy and the submission of the invoices/receipts.

I also find on the landlord's claim of \$105.00 for a flea inspection is dismissed. The landlord provided undisputed affirmed testimony that this claim is based solely on a condition of the signed tenancy agreement in which both parties agreed that the tenant shall have a flea inspection done for the rental unit at his expense at the end of tenancy. The landlord provided no evidence other than this and as such, I find that this condition of the tenancy to be unconscionable and unenforceable. The landlord provided no evidence that there were fleas present at the end of tenancy or that there was a concern to ascertain this. The landlord stated that the "flea inspection" was used to alleviate any concerns the landlord or the next future tenant would have on the issue.

The landlord cancelled item #5 of their monetary claim of \$25.98 as this was a duplicate request as it has already been sought/included in item #4, the handy man's invoice for a ballast.

The landlord has established a total monetary claim of \$1,193.89.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee. The landlord is also authorized to retain the \$550.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlord is granted a monetary order for \$743.89.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and 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: January 16, 2020

Residential Tenancy Branch