



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNDL-S

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution filed on September 13, 2019 wherein the Landlord requested monetary compensation from the Tenants in the amount of \$567.42, authority to retain the Tenants' security deposit and recovery of the filing fee.

Only the Landlord's managing broker, T.V., called into the hearing. She gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

The Tenants did not call into this hearing, although I left the teleconference hearing connection open until 1:47 p.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that T.V. and I were the only ones who had called into this teleconference.

As the Tenants did not call in, I considered service of the Landlord's hearing package. T.V. testified that she individually served both the Tenants with the Notice of Hearing and the Application on September 20, 2019 by registered mail. A copy of the registered mail tracking number for both packages is provided on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of September 25, 2019 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Landlord's managing broker confirmed her email address during the hearing as well as their understanding that this Decision would be emailed to them.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. Is the Landlord entitled to retain the Tenants' security deposit towards the amounts awarded?
3. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord provided a copy of the residential tenancy agreement in evidence which confirmed the tenancy began September 1, 2018; monthly rent was payable in the amount of \$1,840.00; and, the Tenants paid a security deposit in the amount of \$887.50.

The Tenants vacated the rental unit on August 30, 2019.

The parties participated in a move out inspection on August 30, 2019. The report indicates the Tenants agreed to the cost of garbage removal, new fan filters, and new light bulbs. The Landlord also submitted photos of the rental unit in support of the claims.

Although the Landlord claimed the sum of \$241.50 for carpet cleaning, T.V., testified that the Landlord no longer sought compensation for this amount. As such, the Landlord only claimed the cost of the garbage removal, new fan filters and new light bulbs in the amount of \$325.92 in addition to the filing fee.

Analysis

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

www.gov.bc.ca/landlordtenant.

In a claim for damage or loss under section 67 of the *Act* or the 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* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party 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.

Section 37(2) of the *Act* requires a tenant to leave a rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy and reads as follows:

- 37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.
- (2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

After consideration of the Landlords' undisputed evidence and their managing brokers' testimony I find the Landlord is entitled to recover the \$325.92 claimed for cleaning the range hood filter, replacing light bulbs and removing items left by the Tenants at the end of the tenancy.

I therefore award the Landlord the \$325.92 claimed. As they have been successful in their application, I also award them recovery of the \$100.00 filing fee for a total award of **\$425.92**.

Pursuant to sections 38 and 72 of the *Act*, I authorize the Landlord to retain \$425.92 from the Tenants' \$887.50 security deposit. The balance of the deposit, \$461.58 must be returned to the Tenants. In furtherance of this my Decision I award the Tenants a monetary order in the amount of **\$461.58**. The Tenants may only enforce this Order if the Landlord fails to return the balance of their deposit pursuant to this my Decision.

Conclusion

The Landlord's claim for monetary compensation for rubbish removal, cleaning of the range hood fan and replacement of light bulbs is granted. The Landlord is also entitled to recover the filing fee for a total award of \$425.92. The Landlord may retain \$425.92 from the Tenants' security deposit and must return the balance of \$461.58 to the Tenants.

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