



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, MNRL-S, FFL

Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on September 12, 2019 two copies of the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch in September of 2019 were personally served to the Tenant with the initials "I.D.". On the basis of this undisputed evidence, I find that this Tenant was served with these documents in accordance with section 89(1)(a) of the *Residential Tenancy Act (Act)*, and the evidence was accepted as evidence for these proceedings.

When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Act*. As I am satisfied that the Tenant with the initials "I.D." was served in accordance with section 89(1)(a), I find it reasonable to proceed with the hearing in his absence.

Section 89(2) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;

- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

As there is no evidence that the Tenant with the initials "D.N." was served with the Application for Dispute Resolution in accordance section 89(1) of the *Act* and there is no evidence that she received the Application for Dispute Resolution, the Landlord was advised that I was unable to proceed with the hearing in the absence of this Tenant.

The Landlord was advised that she had the option of withdrawing the Application for Dispute Resolution and proceeding at a later date or she could amend the Application for Dispute Resolution by removing this The Tenant with the initials "D.N.". The Landlord opted to amend the Application for Dispute Resolution and the Application for Dispute Resolution was amended. The Landlord was advised that any monetary Order awarded as a result of these proceedings would only name the Tenant with the initials "I.D.".

The Landlord was given the opportunity to present relevant oral evidence and to make relevant submissions. She affirmed that she would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Are the Landlords entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Landlord stated that:

- the tenancy began on July 15, 2019;
- the Tenants agreed to pay monthly rent of \$1,200.00 by the first day of each month;
- the Tenant paid a security deposit of \$300.00;
- on August 07, 2019 the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause;

- the Notice to End Tenancy declared that the tenancy would end on September 31, 2019;
- on August 30, 2019 the Tenant informed the Landlord, via email, that the rental unit was being vacated that night;
- the Tenant gave no prior notice to end the tenancy;
- no rent was paid for September;
- the Landlords are seeking loss of revenue for September of 2019; and
- the Tenant agreed to pay 1/3 of the hydro bill;

The Landlord is seeking compensation, in the amount of \$171.46 for hydro costs. The Landlord submitted a hydro bill, in the amount of \$157.06. The Landlord stated that the Tenant has not paid his portion of this bill, which is \$52.35.

The Landlord stated that they did not submit any bills to support the remaining \$119.11 of the hydro claim and that she is, therefore, withdrawing that portion of the claim.

The Landlord is seeking \$99.10 for replacing a door frame, which the Landlord stated was damaged when the Tenant forced a couch through the frame. The Landlord submitted internet evidence to show that it will cost \$38.48 to purchase a new door frame. She stated that the remainder of this claim is for time spent installing the frame. She stated that the Landlord intends to personally install the frame and she is seeking compensation for the time it will take to install the frame, which she estimates will be 1.5 to 2 hours.

The Landlord is seeking \$40.49 for paint supplies. The Landlord stated that the unit was painted at the start of the tenancy and that several walls needed repainting at the end of this short tenancy. The Landlord submitted a receipt to show that the Landlord paid this amount for painting supplies.

The Landlord is seeking \$34.08 for cleaning supplies. The Landlord stated that the unit required cleaning at the end of this short tenancy. The Landlord submitted a receipt to show that the Landlord paid \$14.68 for cleaning supplies. The Landlord stated that the Landlord also used approximately \$10.00 worth of cleaning supplies the Landlord had previously purchased.

The Landlord is also seeking \$45.00 for cleaning the carpet. She stated that she spent approximately 45 minutes cleaning the carpet, using her own supplies and equipment.

The Landlord is seeking \$8.99 for replacing a missing pop-up sink drain. The Landlord stated that the item was provided at the start of the tenancy and that it was missing at the end of the tenancy. The Landlord submitted internet evidence to show that it will cost \$8.99 to purchase a new pop-up drain.

The Landlord is seeking compensation of \$425.00 for time spent cleaning the rental unit, with the exception of the carpet, and for painting the rental unit. She estimates the Landlord and others spent 20 hours completing these tasks.

Analysis

On the basis of the undisputed testimony, I find that the Tenants vacated this rental unit on August 30, 2019.

Section 44(1)(a) of the *Act* stipulates that a tenancy ends if the tenant or landlord gives notice to end the tenancy in accordance with section 45, 46, 47, 48, 49, 49.1, and 50 of the *Act*. The evidence shows that neither party gave proper notice to end this tenancy on August 30, 2019 in accordance with these sections and I therefore find that the tenancy did not end pursuant to section 44(1)(a) of the *Act*.

Section 44(1)(b) of the *Act* stipulates that a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy. As there is no evidence that this was a fixed term tenancy, I find that the tenancy did not end pursuant to section 44(1)(b) of the *Act*.

Section 44(1)(c) of the *Act* stipulates that a tenancy ends if the landlord and the tenant agree in writing to end the tenancy. As there is no evidence that the parties agreed in writing to end the tenancy, I find that the tenancy did not end pursuant to section 44(1)(c) of the *Act*.

Section 44(1)(d) of the *Act* stipulates that a tenancy ends if the tenant vacates or abandons the rental unit. I find that this tenancy ended, pursuant to section 44(1)(d) of the *Act*, on August 30, 2019 when the Tenant vacated the rental unit.

Section 44(1)(e) of the *Act* stipulates that a tenancy ends if the tenancy agreement is frustrated. As there is no evidence that this tenancy agreement was frustrated, I find that the tenancy did not end pursuant to section 44(1)(e) of the *Act*.

Section 44(1)(f) of the *Act* stipulates that a tenancy ends if the director orders that it has ended. As there is no evidence that the director ordered an end to this tenancy, I find that the tenancy did not end pursuant to section 44(1)(f) of the *Act*.

I find that the Tenant failed to comply with section 45 of the *Act* when the Tenant failed to provide the Landlord with notice of intent to end the tenancy the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. I find that providing notice on August 30, 2019 of the Tenant's intent to leave on that same day does not meet this legislative requirement.

I find that the Tenant's failure to comply with section 45 of the *Act* prevented the Landlord from re-renting the unit for September of 2019 and I therefore find that the Tenant must pay the Landlord \$1,100.00 for lost revenue for that month.

On the basis of the undisputed testimony that the Tenant was required to pay 1/3 of the hydro bill and that he did not pay his portion of the bill submitted in evidence, which is \$52.35. I find that the Tenant must pay this amount to the Landlord.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

On the basis of the undisputed testimony I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the door frame that was damaged during this tenancy. On the basis of the evidence presented I find that it will cost \$38.48 in materials to complete this repair. As the Landlord intends to personally install the frame, which she estimates will take between 1.5 to 2 hours, I find it reasonable to compensate the Landlord for 2 hours of labor, in the amount of \$50.00. I therefore grant the Landlord compensation of \$88.48 for replacing the door frame.

On the basis of the undisputed testimony I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the damage to the walls. On

the basis of the evidence presented I find that the Landlord paid \$40.49 for paint supplies, and that the Landlord is entitled to the full amount of this claim.

On the basis of the undisputed testimony I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit in reasonably clean condition at the end of the tenancy. On the basis of the evidence presented I find that the Landlord paid \$14.68 for cleaning supplies and the Landlord used approximately \$10.00 of cleaning supplies that had been previously purchased. I therefore find that the Landlord is entitled to compensation of \$24.68 for cleaning supplies.

I also find that the Landlord is entitled to compensation for the 45 minutes she spent cleaning the rental unit. I find that \$25.00 per hour is reasonable compensation for labor of this nature. I therefore find that the Landlord is entitled to \$18.75 for cleaning the carpet.

On the basis of the undisputed testimony I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the pop-up sink drain that was provided at the start of the tenancy. On the basis of the evidence presented I find that it will cost \$8.99 to replace the item and I find that the Landlord is entitled to compensation in that amount.

As I have previously concluded that the Landlord is entitled to compensation for cleaning and painting the rental unit, I find that the Landlord is entitled to the 20 hours spent completing those tasks. At a rate of \$25.00 per hour, I find that the Landlord would be entitled to compensation of \$500.00 for these tasks. The Landlord has only claimed \$425.00 for labor and I award that amount to the Landlord, as I am unable to award compensation that exceeds the amount of the claim.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,858.74, which includes \$1,100.00 for lost revenue for September of 2019; \$52.35 for hydro costs; \$88.48 for replacing a door frame; \$40.49 for painting supplies; \$24.68 for cleaning supplies; \$18.75 for cleaning the carpet; \$8.99 for a pop-up sink drain; \$425.00 for time

spent cleaning and painting; and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$300.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,558.74. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: January 10, 2020

Residential Tenancy Branch