



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 landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for a monetary order in the amount of \$5,759.83 for damages to the unit, site or property, to retain the tenant's security deposit towards any amount owing, and to recover the cost of the filing fee.

The landlord and the tenant attended the teleconference hearing and gave affirmed testimony. The parties were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The parties confirmed service of all relevant documentary evidence, and confirmed that they had the opportunity to review documentary evidence prior to the hearing. I find the parties were sufficiently served under the Act as a result.

Preliminary and Procedural Matter

At the outset of the hearing the parties confirmed their email addresses. The parties confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party for service on the other party.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of a tenancy agreement was submitted in evidence. A fixed-term tenancy began on March 1, 2019 and was scheduled to revert to a month to month tenancy after September 1, 2019. Monthly rent was \$1,200.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$600 at the start of the tenancy, which have accrued no interest under the Act, and which the landlord continues to hold.

The landlord's monetary claim of \$5,759.83 is comprised of one invoice from a restoration services company, TRS (restoration company) for flooding restoration related to a flood the landlord states was caused by the tenant's negligence. A copy of the invoice was submitted in evidence, which matches the amount claimed.

The landlord testified that the tenant admitted to leaving the water running on for 15 minutes on September 3, 2019, which the tenant confirmed during the hearing. The landlord testified that they were notified by the strata counsel (strata) at 10:30 p.m. and entered the rental unit fifteen minutes later, and that a restoration company was waiting as the water flooded down to the unit below and another unit below that and that in total, 3 rental units required water/flood restoration due to what the landlord described as tenant negligence.

The landlord testified that the strata advised the landlord that the owner of the rental unit was responsible for paying the cost of the invoice due to the negligence of their tenant. The landlord stated that they are now claiming against the tenant to reimburse the landlord due to the negligent actions of the tenant.

The tenant admitted to having a stand-alone washing machine (washing machine) in their rental unit and that a tub had to be filled to operate the washing machine. The tenant testified that they turned on the water at full pressure and forgot about the water being left on for 15 minutes while they prepared to leave for work. The tenant also admitted that they left for work without first notifying the strata or the landlord. The

tenant's response was that due to the landlord not having insurance on the rental unit, that the damage should not be responsible for the damage, due to what the tenant described as a "bad business practice". The tenant testified that they did not leave the water on maliciously, and that it was an accident.

The tenant stated that there could have been previous water damage at the start of the tenancy; however, admitted that they did not submit any documentary evidence in support of that allegation.

The landlord stated that they felt the tenant left the water on for 2 hours, while the tenant testified it was 15 minutes but at full pressure. The tenant claims they extracted the water from the carpet before leaving for work, which the landlord disputed as water flooded down two units below and that the restoration team required more work in the rental unit as well, and that the total bill was \$5,759.83.

Analysis

Based on the documentary evidence presented, the testimony of the parties and on the balance of probabilities, I find the following.

Having considered the documentary evidence and testimony of the parties, I find the tenant's actions by leaving water running on at full pressure for at least 15 minutes unattended is unreasonable and negligent behaviour. I also find that the landlord having insurance or not is moot, as I accept that the strata denied making an insurance claim due to the negligence of the tenant, and that the tenant is responsible for the damage they caused, and not the landlord. While the landlord may have paid the repair bill as an owner, I find the tenant is ultimately liable for all costs as claimed.

Based on the above, I find the landlord has met the burden of proof and that the tenant owes the landlord **\$5,759.83** as claimed for the water damage. As the landlord's claim was successful, I grant the landlord the **\$100.00** filing fee pursuant to section 72 of the Act. Therefore, I find the landlord has established a total monetary claim of **\$5,859.83**.

As the landlord continues to hold the tenant's \$600.00 security deposit and pursuant to sections 38 and 67 of the Act, I grant the landlord authorization to retain the tenant's \$600.00 security deposit including \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. Pursuant to section 67 of the Act, I grant the landlord a monetary order for the balance owing by the tenant to the landlord in the amount of **\$5,259.83**.

I caution the tenant not to be negligent in the future by leaving water running in a rental unit while unattended in the future.

Conclusion

The landlord's claim is fully successful.

The landlord has established a total monetary claim of \$5,859.83. The landlord has been authorized to retain the tenant's full security deposit including \$0.00 in interest of \$600.00 in partial satisfaction of the landlord's monetary claim pursuant to sections 38 and 67 of the Act.

The landlord is granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$5,259.83. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 17, 2020

Residential Tenancy Branch