



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC MNR MNSD FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on October 27, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage;
- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent or utilities;
- an order that the Landlords be permitted to apply the security deposit held to any monetary award granted; and
- an order granting recovery of the filing fee.

The Landlord S.C. attended the hearing on behalf of both Landlords. The Tenants attended the hearing on their own behalf. S.C. and the Tenants provided affirmed testimony.

S.C. testified that the Notice of Dispute Resolution Hearing package, including documentary evidence was served on the Tenants by registered mail. The Tenants acknowledged receipt. Further, the Tenants testified that the documentary evidence upon which they rely was served on the Landlords in person. S.C. acknowledged receipt. No issues were raised during the hearing with respect to service or receipt of the above documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing, S.C. sought to add claims for unpaid utilities not addressed below totalling roughly \$400.00. However, particulars of these items were not provided on the Worksheet, an amendment was not filed, and the Tenants denied receipt of any details with respect to the unpaid utilities. Therefore, these additional unpaid utilities have not been considered in this decision

Issues to be Decided

1. Are the Landlords entitled to a monetary order for damage?
2. Are the Landlords entitled to a monetary order for money owed or compensation for damage or loss?
3. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
4. Are the Landlords entitled to retain the security deposit held in partial satisfaction of the claim?
5. Are the Landlords entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties agreed the tenancy began on November 1, 2017. The Tenants vacated the rental unit on October 15, 2019. During the tenancy, rent in the amount of \$2,000.00 per month was due on the first day of each month. The Tenants paid a security deposit in the amount of \$1,000.00 and a pet damage deposit in the amount of \$1,000.00, which the Landlords hold.

The Landlords' claim was set out on a Monetary Order Worksheet dated October 27, 2019 (the "Worksheet"). The Landlords did not submit a condition inspection report into evidence.

First, the Landlords claim \$155.40 for junk removal. S.C. testified that the Tenants left behind personal items and that the Landlords had to contact a junk removal company to dispose of them. Photographs of various buckets and containers left at the rental property were submitted in support. The Landlords also submitted an invoice for the amount claimed in support. In reply, the Tenants testified they cleared out the rental property and left it in the condition in which it was received. They acknowledged they left behind recycling buckets that belong to the city. The Tenants suggested that garbage cans and boxes left behind may have belonged to other tenants in the property. However, S.C. disagreed with this assertion and testified that the other tenants in the property told him the items did not belong to them.

Second, the Landlords claim \$201.59 for a dishwasher repair. S.C. testified that the dishwasher was found to have a piece of glass in the motor. S.C. also advised that the drain was clogged, and that mold was present in the dishwasher. Photographs of the dishwasher and a receipt for the amount claimed was submitted in support. In reply, the Tenants denied responsibility for the damage. They testified that they made multiple requests to the Landlords for maintenance and repairs related to a garburator and the dishwasher which went unaddressed.

Third, the Landlords claim \$62.15 for an unpaid BC Hydro bill. The Tenants did not dispute this aspect of the claim.

Fourth, the Landlords claim \$73.64 for an unpaid Fortis bill. The Tenants did not dispute this aspect of the claim.

Fifth, the Landlords claim \$2,000.00 in unpaid rent due on October 1, 2019. S.C. testified that he received notice of the Tenants' intention to vacate the rental unit on September 15, 2019 and that the notice was to be effective on October 15, 2019. The Landlords assert that the Tenants' notice was effective October 31, 2019 and that the full amount of rent of \$2,000.00 became due on October 1, 2019. In reply, the Tenants did not dispute that rent was not paid when due on October 1, 2019. However, they referred to a previous dispute resolution hearing that took place on December 9, 2019. In a decision dated December 10, 2019, the Tenants were awarded \$450.00 due to the Landlords' breach of section 29 of the *Act*. The file number of the related proceeding has been included above for ease of reference.

Sixth, the Landlords claim \$200.00 for the Landlords' time to clean the rental unit (6 hours x \$30.00 per hour plus \$20.00 for cleaning supplies. S.C. referred to photographs depicting the inside of the dishwasher, the bathtub, the washing machine, the dryer, the floor, the freezer, the storage room floor, the bathroom vanity drawer, the oven, the kitchen sink, and carpeted stairs were submitted in support. In reply, the Tenants described this aspect of the Landlords' claim "ridiculous". They testified that the rental unit was cleaned and was left in better condition then when they moved in.

Seventh, the Landlords claim \$20.00 for the time it took to replace a smoke alarm that had been removed and placed in a drawer without a battery. He noted this presented a safety risk. In reply, the Tenants acknowledged they removed the smoke alarm and that it did not contain a battery. They testified it was not "up" but that it still worked.

Eighth, the Landlords claimed \$30.00 (1 hour x \$30.00 per hour) for the time it took to organize and deal with the dishwasher repair referred to above. In reply, the Tenants disagreed with this aspect of the claim and relied on their testimony with respect to the dishwasher repair generally.

Ninth, the Landlords claim \$30.00 (1 hour x \$30.00 per hour) for the time it took to organize and deal with the junk removal referred to above. In reply, the Tenants disagreed with this aspect of the claim and relied on their testimony with respect to the junk removal generally.

Finally, the Landlords claimed \$100.00 in recovery of the filing fee, and an order permitting the Landlords to retain the security deposit held in partial satisfaction of the claim.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlords to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlords did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlords' claim for \$155.40 for junk removal, I find the Landlords are entitled to the relief sought. I accept the Landlords' evidence, which included photographs and the testimony of S.C. who stated that the other tenants informed him that the items depicted did not belong to them. The claim is also supported by an invoice in the amount claimed. The Landlords are granted a monetary award in the amount of \$155.40.

With respect to the Landlords' claim for \$201.59 for a dishwasher repair, I find there is insufficient evidence before me to grant the relief sought. While the issue appears to have arisen during the tenancy, there is insufficient evidence to find that the damage occurred either intentionally or due to the Tenants' negligence. Rather, I accept the evidence of the Tenants who testified they made numerous service requests regarding the dishwasher that went unanswered and may have exacerbated the problem. This aspect of the Landlords' claim is dismissed.

With respect to the Landlords' claim for \$62.15 for an unpaid BC Hydro bill, the Tenants agreed with this aspect of the claim. The Landlords are granted a monetary award in the amount of \$62.15.

With respect to the Landlords' claim for \$73.64 for an unpaid Fortis bill, the Tenants agreed with this aspect of the claim. The Landlords are granted a monetary award in the amount of \$73.64.

With respect to the Landlords' claim for \$2,000.00 in unpaid rent due on October 1, 2019, I find the Landlords have demonstrated an entitlement to the relief sought. Section 45 of the *Act* confirms that a tenant may end a periodic tenancy by giving written notice. The notice is effective on the last day of the month following the month in which notice is given. In this case, the parties agreed the Tenants provided the Landlords with notice on September 15, 2019. In accordance with section 45 of the *Act*, the notice was effective on October 31, 2019. However, the Tenants acknowledged that rent was not paid when due on October 1, 2019. The Landlords are granted a monetary award in the amount of \$2,000.00.

With respect to the Landlords' claim for \$200.00 for the Landlords' time to clean the rental unit and for cleaning supplies, section 37 of the *Act* confirms that tenants must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find the Landlords are entitled to most of the relief sought. The claim was supported by numerous photographs depicting the inside of the rental unit. The standard is not one of perfection. However, I reject the Tenants' assertion that the Landlords' claim is "ridiculous" and find the rental unit was not reasonably clean at the end of the tenancy and that the amount of time claimed by the Landlords is reasonable. However, I decline to grant recovery of cleaning supplies as they were not supported by receipts. The Landlords are granted a monetary award in the amount of \$180.00.

With respect to the Landlords' claim for \$20.00 for the time it took to replace a smoke alarm, I find the Landlords are entitled to the relief sought. The Tenants acknowledged removing the smoke alarm and that the battery was not replaced. I find that \$20.00 is a reasonable amount for the time to replace the smoke alarm. The Landlords are granted a monetary award in the amount of \$20.00.

With respect to the Landlords' claim for \$30.00 to organize and deal with the dishwasher repair, I have found that the Tenants are not responsible for the repair. It follows that the Tenants are therefore not responsible to reimburse the Landlords' time to organize the repair. This aspect of the Landlords' claim is dismissed.

With respect to the Landlords' claim for \$30.00 to organize junk removal, I find there is insufficient evidence before me to grant the relief sought. While I accept that organizing junk removal created an inconvenience, I find that this aspect of the claim is not compensable in these circumstances and is the responsibility of landlords as businesspeople. This aspect of the Landlords' claim is dismissed.

Having been successful, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. I also order that the Landlords may retain the security deposit and pet damage deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the *Act*, I find the Landlords are entitled to a monetary order in the amount of \$591.19, which has been calculated as follows:

Claim	Allowed
June removal:	\$155.40
BC Hydro:	\$62.15
Fortis:	\$73.64
Rent (October 1-31, 2019):	\$2,000.00
Cleaning time:	\$180.00
Replace smoke alarm:	\$20.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$1,000.00)
<i>LESS</i> pet damage deposit:	(\$1,000.00)
TOTAL:	\$591.19

Conclusion

The Landlords are granted a monetary order in the amount of \$591.19. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: March 11, 2020

Residential Tenancy Branch