



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL, MNDCL, MNDL-S

Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution, filed on October 29, 2019, wherein the Landlords sought monetary compensation in the amount of \$11,300.00 for unpaid rent and damage to the rental unit, authority to retain the Tenants' security deposit and recovery of the filing fee.

The hearing of the Landlords' Application was scheduled for teleconference at 1:30 p.m. on March 23, 2020. Only the Landlord, M.D.M., (hereinafter referred to as D.M.) and a witness for the Landlord, S.C., called into the hearing. They gave affirmed testimony and were provided the opportunity to present their 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 2:12 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 D.M. and S.C. and I were the only ones who had called into this teleconference.

As the Tenants did not call in, I considered service of the Landlords' hearing package. D.M., testified that they were granted permission to serve the Tenants by email by Decision of Adjudicator Doyan on November 6, 2019 and that pursuant to that Decision, they emailed the Application Materials and Notice of Hearing to the Tenants on November 6, 2019. D.M. further stated that they personally served the Tenants with the Notice of Hearing and the Application on November 20, 2019. D.M. also confirmed

I accept D.M.'s testimony and I find the Tenants were duly served with notice of the hearing and I therefore 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 residential tenancy agreement provided in evidence confirmed the names of the Tenants as including the Tenants' company, F.C.C. Pursuant to section 64(3)(c) I amend the Landlords' Application to accurately name the Tenants.

The tenancy agreement also indicated that the Tenants did not pay a security deposit; as such, the Landlords request or an Order that they be authorized to retain the deposit was not applicable.

D.M., also confirmed his email addresses during the hearing as well as his understanding that this Decision would be emailed to them.

Issues to be Decided

1. Are the Landlords entitled to monetary compensation for unpaid rent?
2. Are the Landlords entitled to monetary compensation for cleaning and repairs to the rental unit?
3. Should the Landlords recover the filing fee?

Background and Evidence

The residential tenancy agreement indicated that this tenancy began January 15, 2019. Monthly rent was \$5,000.00 per month for a house and a farm.

D.M. testified on behalf of the Landlords and stated that the tenancy ended by way of Order of Possession granted on August 22, 2019. The file number for that matter is included on the unpublished cover page of this my Decision.

D.M. further testified that the Tenants did not move from the property, following which the Landlords obtained a Writ of Possession from the B.C. Supreme Court. D.M. confirmed that the Tenants moved out of the rental property upon service of the Writ.

The Landlords claimed that the Tenants failed to pay rent for August and September 2019, such that the Landlords sought the sum of \$10,000.00 for unpaid rent for those two months.

The Landlords also claimed \$200.00 for unpaid electrical charges. D.M. stated that the power was cut off and he had to put the power in his name.

The Landlords also claimed \$500.00 for cleaning of the rental unit as well as \$500.00 for repairs. In support of this portion of their claim the Landlords submitted a copy of the Move Out Condition Inspection Report, photos of the rental unit, as well as an estimate from S.C. who wrote that the cost to clean and repair the unit would be \$1,000.00.

S.C. also testified. He confirmed the contents of his affidavit wherein he estimated \$1,000.00 in cleaning and repair; he further confirmed that he was paid \$1,000.00 for cleaning and repair of the unit. S.C. also confirmed the photos provided in evidence accurately depicted the condition of the rental unit when he viewed the rental unit and provided his estimate.

S.C. testified that the Tenants left a number of items behind. He also stated that the carpet was flooded, which appeared to be caused by copper pipes which had in turn been cut by the Tenants. In addition to the debris "left everywhere" by the Tenants, mould was developing because of the water leaks.

In terms of repairs, S.C. stated that he had to remove the standing water with a shop vac, and remove all of the debris left by the Tenants. He further stated that he had to repair the woodstove hearth as it appeared as though the Tenants were chopping firewood on the hearth. He also had to do some re-wiring.

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 Landlords have 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.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- proof that the damage or loss exists;
- proof that the damage or loss occurred due to the actions or neglect of the responding party in violation of the *Act* or agreement;
- proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- proof that the applicant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

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 D.M. and S.C.'s undisputed testimony I find as follows.

I find the Tenants were obligated to pay rent in the amount of \$5,000.00 per month. I accept the Landlords' evidence that the Tenants failed to pay for August and September 2019; as such, I award the Landlord **\$10,000.00** in compensation for unpaid rent.

I accept D.M.'s testimony that the Tenants failed to pay the electrical utility in the amount of **\$200.00**. I therefore find the Landlords are entitled to recover this amount from the Tenants.

I am persuaded, by the Condition Inspection Report, the photos of the rental unit, and the testimony of S.C. that the Tenants failed to clean and repair the rental unit as required by the *Act*. I therefore award the Landlords the **\$1,000.00** claimed for cleaning and repairs.

As the Landlords have been substantially successful in their Application, I award them recovery of the **\$100.00** filing fee for a total award of **\$11,300.00**.

Conclusion

The Landlords claim for monetary compensation in the amount of **\$11,300.00** is granted.

In furtherance of this the Landlords are granted a Monetary Order in the amount of **\$11,300.00**. This Order must be served on the Tenants and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

Pursuant to section 77 of the *Act* I permit the Landlords to serve the Monetary Order on the Tenants by email.

March 25, 2020