



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PETER WALL YALETOWN
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNDC MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on November 2, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The Landlord was represented at the hearing by V.S., the building manager, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, V.S. testified that the Notice of Dispute Resolution Proceeding documents and documentary evidence were served on the Tenant by email on November 13 and 19, 2019, respectively. Service in this matter was permitted pursuant to an order for substituted service granted on November 8, 2019. Screen prints of the email correspondence to the Tenant were submitted in support. In accordance with the order granting substituted service, I find the Notice of Dispute Resolution Proceeding documents and documentary evidence were sufficiently served for the purposes of the *Act* on November 16 and 22, 2019, respectively.

On behalf of the Landlord, V.S. was 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.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage?
2. Is the Landlord entitled to a monetary order for compensation for monetary loss or other money owed?
3. Is the Landlord entitled to retain the security deposit held in partial satisfaction of the claim?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed that a fixed-term tenancy began on March 1, 2018 and continued to March 1, 2019. V.S. confirmed the tenancy continued on a month-to-month basis until the Tenant vacated the rental unit without notice on October 31, 2019. V.S. testified he believes the Tenant vacated on that date because that was the last date on which the Tenant used the fob to access the rental property. During the tenancy, rent in the amount of \$2,240.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$1,120.00, which the Landlord holds.

The Landlord's claims are set out on a Monetary Order Worksheet dated February 11, 2020. The claims are supported by a Condition Inspection Report. The move-in condition inspection was completed on March 3, 2018 and was signed by the Tenant. It indicates the rental unit was in "new" condition at the beginning of the tenancy. The move-out condition inspection was completed on November 1, 2019 in the absence of the Tenant who abandoned the rental unit without notice. The issues raised in the move-out condition inspection are summarized in the evidence below.

First, the Landlord claims \$420.00 for painting and repairs. In support, the Landlord submitted photographs of a dent in the closet door, a dent in the bathroom door, a scratch on the living room wall, and a hole in the bedroom door. An invoice dated November 2, 2019 was submitted in support.

Second, the Landlord claims \$315.00 for the cost incurred to remove junk from the rental unit. In support, the Landlord submitted photographs depicting bedding, camp chairs, a mattress, a box, and plastic grocery bags containing empty pop bottles. An invoice dated October 30, 2019 was submitted in support.

Third, the Landlord claims \$262.50 for the cost incurred to clean the rental unit. In support, the Landlord submitted photographs of a dirty bathtub, a dirty lint trap, the stove and oven, the fridge, a baseboard heater, a dusty vent cover, a dirty toilet, and a dirty kitchen cupboard. An invoice dated October 25, 2019 was submitted in support.

Fourth, the Landlord claims \$2,240.00 for unpaid rent due on November 1, 2019. As noted above, V.S. testified the Tenant vacated the rental unit without notice on October 31, 2019.

Finally, the Landlord claimed \$100.00 in recovery of the filing fee and requests an order that the security deposit be applied to any monetary order granted.

As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and 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 Landlord 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 Landlord must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

In addition, section 32 of the *Act* confirms that a tenant must leave a rental unit reasonably clean, and undamaged except for reasonable wear and tear.

With respect to the Landlord's claim for \$420.00 for painting and repairs, I find the Tenant did not leave the rental unit undamaged except for reasonable wear and tear. The move-in condition inspection confirms the unit was in "new" condition at the beginning of the tenancy. I find the damage depicted in the photographs submitted into evidence is not reasonable wear and tear. The claim was supported by a receipt for the amount paid. The Landlord is granted a monetary award in the amount of \$420.00.

With respect to the Landlord's claim for \$315.00 for the cost incurred to remove junk from the rental unit, I find the Landlord is entitled to the relief sought. The photographs submitted into evidence depict various items left behind by the Tenant. The claim was supported by a receipt for the amount paid. The Landlord is granted a monetary award in the amount of \$315.00.

With respect to the Landlord's claim for \$262.50 for the cost incurred to clean the rental unit, I find the unit was not left reasonably clean at the end of the tenancy. The move-in condition inspection confirms the unit was provided to the Tenant in "new" condition at the beginning of the tenancy. However, the photographs submitted into evidence depict various areas that required cleaning at the end of the tenancy. The claim was supported by a receipt for the amount paid. The Landlord is granted a monetary award in the amount of \$262.50.

With respect to the Landlord's claim for \$2,240.00 for unpaid rent due on November 1, 2020, I find the Landlord is entitled to the relief sought. I accept the evidence of V.S. who testified that the Tenant vacated the rental unit without notice on or about October 31, 2019 without paying rent when due on November 1, 2019, contrary to section 45(1) of the *Act*. The Landlord is granted a monetary order in the amount of \$2,240.00.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I also find it appropriate to order that the security deposit held be applied to the monetary award granted.

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$2,217.50, which has been calculated as follows:

Claim	Allowed
Painting and repairs:	\$420.00
Junk removal:	\$315.00
Cleaning:	\$262.50
Unpaid rent:	\$2,240.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$1,120.00)
TOTAL:	\$2,217.50

Conclusion

The Landlord is granted a monetary order in the amount of \$2,217.50. 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: April 1, 2020

Residential Tenancy Branch