



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord attended the hearing and was given the opportunity to make submissions as well as present affirmed testimony and written evidence.

The tenants did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 28 minutes to allow the tenants the opportunity to call. The teleconference system indicated only the landlords and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenants had been provided.

As the tenants did not attend the hearing, I asked the landlord to confirm that the tenants were served with the Notice of Hearing and Application for Dispute Resolution

for this hearing. The landlord testified that the tenants are sisters, lived together in the unit, and are currently living together in a location known to the landlord. The landlord testified he attended at their residence on January 14, 2020 and personally served MW and left a copy of the documents for JW. I accept the uncontradicted testimony of the landlord with respect to the relationship between the tenants, their shared residence, and the method of service. I find the tenant MW was personally served in compliance with section 89 and that the tenant JW was sufficiently served pursuant to section 71(2)(c) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided uncontradicted evidence as the tenants did not attend the hearing. The landlord testified the parties entered into a month-to-month tenancy agreement on September 1, 2019. Rent was \$900.00 monthly payable on the first of the month. At the beginning of the tenancy, the tenants provided a security deposit of \$500.00 which the landlord holds. The unit was partially furnished, contained two beds, a vacuum cleaner and a steam cleaner among other items.

On January 11, 2020, the tenants gave the landlord notice of intention to vacate on January 31, 2020. At that time, the tenants had only paid \$50.00 towards rent for January 2020 and \$850.00 remained owing. The landlord went to the unit shortly after January 11, 2020 and discovered the tenants had vacated suddenly, taken furnishings belonging to the landlord, and had left the unit and yard in a filthy condition.

The landlord clarified his claim as follows:

ITEM	AMOUNT
Loss of Rent January 2020	\$850.00
Loss of Rent February 2020	\$900.00
Removed items: 2 beds, vacuum, steam cleaner	\$590.00
Repairs 25 hours at \$35.00 hour reduced to \$450.00	\$450.00
Tipping and disposal fees of tires and garbage	\$260.00
Cleaning at \$35.00 an hour	\$200.00
(less security deposit)	(\$500.00)
TOTAL CLAIM	\$2,750.00

The landlord claimed \$900.00 in lost rent for the month of February 2020 as the unit required considerable cleaning and repairs and was unsuitable for occupation until the end of February 2020.

The landlord testified that the items listed in the above chart were taken by the tenants when they left. All items were in good and workable condition. The landlord requested compensation for the replacement value of similar used items in the amount of \$590.00.

The landlord testified that the tenants had four dogs who did considerable damage to the unit including destroying trim and flooring.

The landlord testified that the tenants had hung a dart board on one wall; the entire wall and floor was covered with holes from darts which required filling, sanding, priming and repainting.

The landlord testified that as a result of the damage to the unit by the tenants and their dogs, considerable repairs were needed to the walls, floor and trim for which he requested \$450.00 in compensation at the rate of \$35.00 an hour; the landlord claimed that he reduced the time and considerably more time than claimed was incurred in the repairs.

The landlord testified that the tenants left many items in the unit requiring two trips to the dump. They also left tires which required disposal. The landlord requested compensation in the amount of \$200.00 for his time at the rate of \$35.00 hourly.

The landlord testified that the tenants left the unit filthy. The carpet was severely stained with dog feces. The landlord rented a steam cleaner as the tenants had taken his. The yard was covered with feces. The landlord requested compensation in the amount of \$200.00 for interior and exterior cleaning based on an hourly rate of \$35.00.

No condition inspection was conducted on moving out as the tenants vacated without warning.

The landlord requested reimbursement of the \$100.00 filing fee and authorization to apply the deposit of \$500.00 to the claim.

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

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.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement.

Section 7(1) of the *Act* provided 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.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

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

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award

I have considered all the uncontradicted testimony submitted by the landlord. The landlord was credible and descriptive about the damages claimed.

Taking into account the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning and repairs when the tenants vacated, the tenants and the tenants' pets are responsible for the lack of cleanliness and the damage, the landlord spent the amount of time claimed to clean and repair the unit, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

Rent

The landlord testified the tenancy was a month-to-month tenancy and the tenants left owing rent for January 2020 in the amount of \$850.00.

I find it is reasonable that the unit would remain vacant for the month of February while the landlord carried out cleaning and repairs. I accept the landlord's uncontradicted testimony as to his diligent efforts to mitigate and re-rent the unit. I find that the tenants are responsible to reimburse the landlord for rent for the month of February 2020.

Security Deposit

The landlord is authorized to apply the security deposit to the award under section 72.

Filing Fee

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

Summary

My award to the landlord is summarized as follows:

ITEM	AMOUNT
Loss of Rent January 2020	\$850.00
Loss of Rent February 2020	\$900.00
Removed items: 2 beds, vacuum, steam cleaner	\$590.00
Repairs 25 hours at \$35.00 hour reduced to \$450.00	\$450.00
Time, tipping and disposal fees of tires and garbage	\$260.00
Cleaning at \$35.00 an hour	\$200.00
(less security deposit)	(\$500.00)
TOTAL AWARD	\$2,750.00

I grant a monetary order to the landlord in the amount of **\$2,750.00**

Conclusion

The landlord is entitled to a monetary order in the amount of **\$2,750.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) to be 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 *Residential Tenancy Act*.

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Dated: May 05, 2020

Residential Tenancy Branch