



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on December 16, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on May 19, 2020 as a teleconference hearing. Only the Landlord S.B. appeared and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 13 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant by registered mail on December 19, 2019 to the forwarding address that the Tenant provided the Landlords. A copy of the Canada Post registered mail receipt was submitted in support. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on December 24, 2019, the fifth day after their registered mailing. The Tenant submitted some documentary evidence in response to the Application, however, no one appeared at the time of the hearing to make any submissions.

The Landlord 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. Are the Landlords entitled to a monetary order for damage, compensation, or loss, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Are the Landlords entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on March 25, 2017. During the tenancy, the Tenant was required to pay rent in the amount of \$1,250.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$625.00 which the Landlord continues to hold. The Landlord stated that the tenancy ended on November 30, 2019 and that the Landlord received the Tenant's forwarding address on December 3, 2019.

The Landlord is claiming monetary compensation in relation to strata fines incurred by the Tenant, cleaning fees, as well as garbage removal fees. The Landlords provided a monetary worksheet outlining the costs incurred.

The Landlords are claiming \$200.00 in relation to Strata fines relating to the Tenant not waiting for the gate to close prior to exiting the parking garage on June 12 and 15, 2018. The Landlord provided a copy of the strata fines and witness statements in support.

The Landlords are claiming \$175.00 in relation to removing the items left behind in the rental unit by the Tenant. The Landlord stated that the items included electronics, a couch, plants, a suitcase, and garbage. The Landlord stated that they had to employ the services of a garbage removal company at a cost of \$175.00 to remove and dispose of the items. The Landlords provided a receipt and photographic evidence of the discarded items in support.

The Landlords are claiming \$147.00 in relation to cleaning costs. The Landlord stated that the Tenant left the rental unit filthy and that it required four hours of cleaning to return the rental unit to its original state prior to the tenancy. The Landlord provided photographic evidence, as well as a receipt for cleaning in support.

If successful, the Landlords are also seeking the return of the filing fee. No one appeared for the Tenant to dispute the Landlords' claims.

Analysis

Based on the uncontested 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.

The Landlords are claiming \$200.00 in relation to Strata fines incurred by the Tenant during the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that the Tenant breached the Strata bylaws on June 12 and 15, 2018 resulting in the Landlords incurring \$100.00 fine on each breach. As such, I find that the Landlords are entitled to compensation in the amount of \$200.00.

The Landlords are claiming \$175.00 to remove items left behind in the rental unit by the Tenant. I find that the Landlords have provided sufficient evidence to demonstrate that they suffered a loss of \$175.00 to have the items removed and disposed of. As such, I find that the Landlords are entitled to be compensation in the amount of \$175.00.

The Landlords are seeking \$147.00 in relation to four hours of cleaning as the Tenant left the rental unit dirty following the end of the tenancy. The Landlords provided photographic evidence of the condition of the rental unit at the end of the tenancy which indicated that the rental unit required further cleaning. The Landlords provided a cleaning receipt in support of the costs. As such, I find that the Landlords are entitled to monetary compensation in the amount of \$147.00.

Having been successful, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlords retain \$622.00 from the \$625.00 security deposit held in satisfaction of the claim ($\$625.00 - \$622.00 = \$3.00$)

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$3.00, which represents the remaining balance of their security deposit less the previously mentioned deductions.

Conclusion

The Landlords have established an entitlement to monetary compensation in the amount of \$622.00 which has been deducted from the Tenant's security deposit. The Tenant is granted a monetary order in the amount of \$3.00 which represents the remaining balance of the Tenant's security deposit. The order should be served to the Landlords as soon as possible and 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: May 19, 2020

Residential Tenancy Branch