



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on March 9, 2020, wherein the Landlord sought monetary compensation from the Tenant in the amount of \$2,250.00 for the cost to clean and repair damage to the rental unit and recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for teleconference at 1:30 p.m. on June 4, 2020. Only the Landlord's agent called into the hearing. She gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 2:00 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 the Landlord's agent and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord's agent testified that they served the Tenant with the Notice of Hearing and the Application on March 19, 2020 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision. The tracking information confirms that the package was received by the Tenant on March 23, 2020. On this basis I find that the Tenant was duly served as of March 23, 2020 and I 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's agent and relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord recover the filing fee?

Background and Evidence

The Landlord's agent testified that the tenancy began July 24, 2012. On September 24, 2018 the Tenant moved from the rental unit to another unit within the rental building and entered into a new tenancy agreement.

The Landlord provided a copy of the Move Out Condition Inspection Report dated September 24, 2018 which detailed the condition of the rental unit. The Tenant participated in the report and signed off as to the report accurately recording the condition of the rental. The report indicated the Tenant would clean up the debris, but according to the Landlord's agent she failed to do so.

The Landlord also submitted photos of the rental unit showing the condition of the rental unit. These photos suggest the Tenant made little or no effort to clean the rental unit when she moved out.

The Landlord completed a Monetary Orders Worksheet which set out the Landlord's claim as follows:

Cleaning and debris removal	\$1,200.00
Repair doors, jambs, drywall	\$950.00
TOTAL CLAIMED	\$2,150.00

The Landlord's agent stated that they have been in discussions with the Tenant as to the amounts they incurred to clean and repair the rental unit and the Tenant agreed to the amounts requested by the Landlord but has yet to make any payment towards the amounts owing. Introduced in evidence by the Landlord was a letter dated January 21, 2020 which was sent to the Tenant and which included copies of the invoices for the work.

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 Landlord has 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.

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 testimony and evidence before me, and on a balance of probabilities I find the following. I find the Tenant failed to clean the rental unit as required by section 37 of the *Act*. I am persuaded by the Landlord's agent's testimony, the condition inspection report and the photos of the rental unit. As noted previously, the photos suggest the Tenant made little or no effort to clean the rental unit.

I accept the Landlord's agent's testimony that they have tried to resolve this matter with the Tenant. Evidence of their prior communication was provided to me and confirms the Tenant was aware of the amounts incurred by the Landlord and acknowledged her responsibility for reimbursing the Landlord.

I find the Landlord incurred the costs claimed to clean and repair the rental unit. These amounts are reasonable considering the condition of the rental unit and are therefore recoverable from the Tenant. I find the Landlord is entitled to the amounts claimed in addition to recovery of the filing fee.

Conclusion

The Landlord's claim for monetary compensation from the Tenant is granted. The Landlord is awarded the sum of **\$2,250.00** for the following:

Cleaning and debris removal	\$1,200.00
Repair doors, jambs, drywall	\$950.00
Filing fee	\$100.00
TOTAL AWARDED	\$2,250.00

In furtherance of this my Decision I grant the Landlord a Monetary Order in the amount of **\$2,250.00**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: June 04, 2020

Residential Tenancy Branch