



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pacifica Housing Advisory Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNDL-S

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 13, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The hearing was scheduled for 1:30pm on June 5, 2020 as a teleconference hearing. Only the Landlord's Agent appeared and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 23 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's Agent and I were the only persons who had called into this teleconference.

The Landlord's Agent testified the Application and documentary evidence package was served to the Tenants by registered mail on January 20, 2020. A copy of the Canada Post registered mail receipts 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 Tenants are deemed to have been served with the Application and documentary evidence on January 25, 2020 the fifth day after their registered mailing. The Tenants did not submit any documentary evidence in response to the Application.

The Landlord's Agent 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 to the rental unit, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy began on July 1, 2018. During the tenancy, the Tenants were required to pay rent in the amount of \$1,079.00 to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$406.00 which the Landlord continues to hold. The Landlord's Agent stated that the tenancy ended on December 31, 2019.

The Landlord's Agent stated the parties had agreed to meet to conduct a move out condition inspection of the rental unit on December 31, 2019, however, the Tenants failed to attend. The Landlord's Agent stated that she entered the rental unit to find that it needed repairs and cleaning. The Landlord provided a detailed monetary worksheet which outlined the monetary compensation sought in relation to the following claims;

Item	Amount
Carpet cleaning	\$285.00
Repair large holes in wall	\$65.00
Holes in door	\$200.00
Damage to bathroom vanity	\$200.00
Hood range damage	\$250.00
Fridge drawer broken x2	\$100.00
Organic growth removal in bath	\$1,137.80
Replace bathroom fan	\$125.00
Broken lights fixtures/ 2 blinds	\$192.00
Repairs to window sills x2	\$140.00
Replace broken toilet	\$200.00
Kitchen cabinet repairs	\$1,600.00
Replace baseboard heater	\$100.00
Kitchen cleaning	\$140.00
Bathroom cleaning	\$70.00
Balance of unit cleaning	\$420.00

Replace 1 set of keys	\$25.00
Total Monetary Order	\$5,249.00

The Landlord provided photographic evidence in support of the monetary claims listed above. The Landlord provided a receipt for the organic growth treatment in the amount of \$1,137.80 to remediate areas that had been damaged with mildew and moisture damage which the Landlord's Agent stated was caused by the Tenants during the tenancy.

The Landlord also stated that the rental unit required 18 hours of cleaning which was completed by the Landlord's Agent at a cost of \$35.00 an hour. The Landlord provided photographic evidence of the condition of the rental unit in support.

The Landlord's Agent stated that the Landlord completed the above-mentioned repairs, however, the Landlord's Agent was not able to retrieve the receipts in time for the hearing to support of the costs associated with the remaining repairs.

No one appeared for the Tenant to dispute the Landlord's 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 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 Tenants. 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.

The Landlord is claiming \$5,249.00 in relation to cleaning and repair to damage caused by the Tenants in the rental unit during the tenancy.

I accept that the Landlord provided photographic evidence of the rental unit which appeared to require further repairs and cleaning. I find that the Landlord has only provided one receipt in support of the cost associated with the organic growth treatment to remediate areas that had been damaged with mildew and moisture damage which the Landlord's Agent stated was caused by the Tenants during the tenancy. I find that the Landlord is entitled to monetary compensation in the amount of \$1,137.80.

The Landlord's Agent also stated that the rental unit required 18 hours of cleaning which was completed by the Landlord's Agent at a cost of \$35.00 an hour. Based on the photographic evidence provided, I find that the Tenants did not leave the rental unit reasonably clean at the end of their tenancy. I find that the cost of \$35.00 an hour is reasonable and find that the Landlord is entitled to the return of \$630.00 for cleaning costs.

In relation to the remaining claims on the Landlord's monetary worksheet, I find that the Landlord has provided insufficient evidence to support the value of the loss associated with the repairs. As such, I dismiss the remaining claims with leave to reapply once the Landlord's Agent is able to support the value of the loss that the Landlord is claiming.

Having been partially successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$1,461.80, which has been calculated as follows:

Claim	Amount
Repairs:	\$1,137.80
Cleaning:	\$630.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$406.00)
TOTAL:	\$1,461.80

Conclusion

The Landlord is granted a monetary order in the amount of \$1,461.80. This order must be served on the Tenants as soon as possible. If the Tenants fail to comply the monetary order it 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: June 05, 2020

Residential Tenancy Branch