



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on April 23, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The Landlord's Agents attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenant.

The Landlord's Agents stated that they served the Tenant with the Application package and documentary evidence on April 24, 2020 by Registered Mail. The Landlord submitted a copy of the registered mail receipt in support. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later.

The Landlord's Agents were given an 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 Residential Tenancy Branch Rules of Procedure (Rules of Procedure). However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for damage or loss, pursuant to Section 67 of the *Act*?

2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?
3. Is the Landlords entitled to retain the security deposit, pursuant to Section 38 of the *Act*?

Background and Evidence

The Landlord's Agents stated that the tenancy started on April 1, 2011. Near the end of the tenancy, the Tenant was required to pay rent in the amount of \$949.00 which was due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$375.00 which the Landlord continues to hold. The Tenancy ended on April 9, 2020 after the Tenant moved out of the rental unit.

The Landlord's Agents stated that the Tenant moved out of the rental unit and left it a mess. The Landlord's Agents stated that the Tenant left a lot of her personal items, furniture, and garbage in the rental unit. The Landlord's Agents stated that they employed the services of a junk removal company to remove the items at a cost of \$378.00. The Landlord's Agents stated that the dump fee was \$104.00 to responsibly dispose of the Tenant's items. The Landlord provided photographic evidence of the condition of the rental unit at the end of the tenancy, as well as receipts in support of the above-mentioned costs.

The Landlord's Agents stated that the Tenant also has an outstanding utility bill in the amount of \$114.21. The Landlord provided a copy of the tenancy agreement which indicates that the utilities were not included in the rent, as well as a copy of the outstanding utility bill in support. If successful, the Landlord is also seeking to recover the filing fee paid to make the Application. As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the 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*. Pursuant to Residential Tenancy Policy Guideline #16 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.

In this case, I find that the Landlord has provided sufficient evidence to demonstrate that the Tenant did not leave the rental unit reasonably clean at the end of the tenancy, therefore, I find that the Landlord is entitled to monetary compensation in the amount of \$482.00 for the cost of removing and disposing of the Tenant's items which were left behind in the rental unit. I further find that the Landlord is entitled to the return of \$114.21 relating to the unpaid utilities, which was the responsibility of the Tenant to pay prior to the end of the tenancy. As the Landlord was successful with their Application, I find that they are entitled to the return of the \$100.00 filing fee. I further find it appropriate in the circumstance to order that the Landlord retain the Tenant's security deposit 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 \$321.21, which has been calculated as follows:

Claim	Amount
Garbage removal/disposal	\$482.00
Unpaid utilities:	\$114.21
Filing fee:	\$100.00
<i>LESS</i> security deposit:	-(\$375.00)
TOTAL:	\$321.21

Conclusion

The Landlord is granted a monetary order in the amount of \$321.21. This order must be served on the Tenant as soon as possible. If the Tenant fails 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: August 28, 2020

Residential Tenancy Branch