



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

On April 20, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid rent, utilities and damages to the rental unit, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 42-minute hearing. The Landlord testified that they served the Tenant with the Notice of Dispute Resolution Proceeding via email, pursuant to the Director’s Order (related to COVID-19). The Landlord testified that the Tenant responded by sending an evidence package on August 6, 2020, from the same email. I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Issues to be Decided

Should the Landlord receive a Monetary Order for unpaid rent and utilities, in accordance with Section 67 of the Act?

Should the Landlord receive a Monetary Order for damages, in accordance with Section 67 of the Act?

Should the Landlord be authorized to apply the security deposit to the monetary claims, in accordance with Section 72 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Landlord provided the following terms of the tenancy:

The fixed-term tenancy began on September 1, 2019 with the fixed-term ending on April 30, 2020. The rent was \$2,500.00 and due on the first of each month. Two of the terms on the signed Tenancy Agreement were that the Tenant was responsible for paying the hydro and internet bills. The Landlord collected and still holds a security deposit in the amount of \$1,250.00. The Tenant terminated the vacancy without notice to the Landlord on April 1, 2020.

The Landlord affirmed that the Tenant failed to pay her rent on April 1, 2020 and when the Landlord texted the Tenant to ask about payment, the Tenant responded by saying that she had moved out of the rental unit, had left the keys with the concierge and that the Landlord could keep her security deposit. The Landlord attempted to rent out the rental unit; however, was unable to find a new tenant until July 1, 2020. The Landlord is claiming \$2,500.00 in lost rent for the month of April 2020.

The Landlord acknowledged that they did not do a move-in inspection with the Tenant, nor was a move-in Condition Inspection Report completed. The Landlord stated that a chair, that was part of the furnished rental unit, was missing upon the move-out inspection, of which the Tenant did not attend. The Landlord also noted that a glass coffee table was broken and that there was damage to the bathtub. The Landlord submitted a picture of the broken coffee table, a picture of the bathtub, and a receipt for a replacement coffee table. The Landlord is claiming a loss for the chair, the coffee table and the damaged tub.

The Landlord stated that the Tenant has been paying the bi-monthly hydro and the monthly internet bills at the same time as paying her rent. The Landlord submitted an outstanding hydro bill for January 3, 2020 to March 2, 2020 for \$102.70. The Landlord stated the Tenant would normally add \$50 a month to cover the internet costs for the rental unit. When the Tenant failed to pay for her April 1, 2020 rent, she also failed to

pay her outstanding hydro bill and for the internet. The Landlord is claiming a loss of \$152.70 for utilities.

The Landlord acknowledged that they are currently holding the security deposit of \$1,250.00 and request that they apply that amount to their claim.

Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order the responsible party to pay compensation to the other party. In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The Applicant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the Tenancy Agreement or a contravention of the Act on the part of the other party. Once that has been established, the Applicant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Section 7(1) of the Act establishes that a Tenant who does not comply with the Act, the Regulations or the Tenancy Agreement must compensate the Landlord for damage or loss that results from that failure to comply.

Upon review of the Landlord's undisputed testimony and the Tenancy Agreement, I find that the Tenant was responsible for paying the rent for April 2020, in the amount of \$2,500.00, and failed to do so, in breach of the Tenancy Agreement. Therefore, I find the Landlord has established a monetary claim for unpaid rent in the amount of \$2,500.00.

Section 23 and 35 of the Act directs a landlord and tenant to inspect the condition of a rental unit at both the beginning and end of the tenancy. The landlord must offer the tenant at least two opportunities for the inspections and the landlord must complete condition inspection reports in accordance with the Regulations. Both parties must sign the condition inspection reports and the landlord must give the tenant a copy of the reports. The landlord must make each inspection, complete and sign the reports without the tenant if the landlord has offered two opportunities for both the beginning and end of tenancy inspections and the tenant does not participate on either of the occasions.

In dispute resolution proceedings, a condition inspection report completed in accordance with the Regulations is evidence of the state of repair and condition of the

rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

In this case, the Landlord claimed damages for a missing chair, broken coffee table and bathtub; however, did not submit a move-in condition report to support the presence or condition of these items prior to the Tenant's tenancy. The Landlord also did not provide evidence that could verify the actual monetary amount of the loss or damage to these items. As a result, I find that the Landlord failed to provide sufficient evidence to establish a loss pursuant to section 67 of the Act, and I dismiss this part of the Landlord's claim.

Upon review of the Landlord's undisputed testimony and the Tenancy Agreement, I find that the Tenant was responsible for paying the utilities, specifically the hydro and internet bills, in the amount of \$152.70, and failed to do so, in breach of the Tenancy Agreement. Therefore, I find the Landlord has established a monetary claim for unpaid utilities in the amount of \$152.70.

I find that the Landlord's Application has merit and that the Landlord is entitled to recover the cost of the filing fee for this Application for Dispute Resolution.

I issue a Monetary Order in the Landlord's favour under the following terms, which allows the Landlord to recover unpaid rent, utilities and the filing fee for this Application, and to retain the Tenant's security deposit:

Item	Amount
Unpaid April 2020 Rent	\$2,500.00
Unpaid hydro and internet	152.70
Less Security Deposit	-1,250.00
Recovery of filing fee for this Application	100.00
Total Monetary Order	\$1,502.70

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$1,502.70. In the event that the Tenant does not comply with this Order, it may be served on the

Tenant, filed with the Province of British Columbia Small Claims Court and 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*.

Dated: August 26, 2020

Residential Tenancy Branch