



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit pursuant to section 67.

The landlord, I.S. attended the hearing via conference call and provided undisputed affirmed testimony. None of the other landlords attended and none were represented. Neither of the two tenants attended the hearing nor did they submit any documentary evidence.

The landlord, I.S. stated that the tenants were served in person with the notice of hearing package and the submitted documentary evidence. The landlord was unable to provide a date for service but stated that it was served in person by his daughter.

I accept the undisputed affirmed evidence of the landlord, I.S. and find that the tenants were personally served on a balance of probabilities. Despite not attending the tenants are deemed served as per section 90 of the Act.

During the hearing the landlord clarified that the address provided on the application for dispute was incorrect as the landlord has determined that the tenant was living at an alternate address which the landlord's daughter served the tenants in person at. The alternate address is listed on the cover of this decision. As such, the landlord's application shall be amended to reflect the tenants actual address.

During the hearing the landlord also clarified that the actual monetary claim is \$1,312.50 and not \$1,312.00. The landlord stated that the data entry was incorrect and the actual amount is based upon the submitted estimate for \$1,312.50.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlords seek a monetary claim of \$1,312.50 which is for estimated damage repair costs. The landlord submitted a copy of the estimate dated May 8, 2020 which states in part,

- 1) 6 walls need to be sanded, primed, and repainted with 2 coats to cover the oil base paint that was put on \$700
- 2) Replace damaged carpet in bedroom \$350
- 3) Reinstall carpet that was damaged by the tenant flood caused by wipes garbage down the sanitary pipe. \$200

Included on the estimate is \$62.50 for GST (taxes).

The landlord clarified that the tenants applied oil based paint on the walls throughout the rental premises over the latex paint. The landlord also stated that the carpet in the bedroom was damaged and has a "run" through it which cannot be repaired. The landlord stated that the carpet that was damaged in a tenant caused flood need to be reinstalled after cleaning. The landlord stated that the above noted estimate details the work required to put the rental back in rentable condition.

The landlord also submitted 9 black and white photographs of the rental unit, but that the photographs are of such quality that no discernable details can be seen with any clarity.

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 that 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 claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord that the tenants had vacated the rental unit leaving it with damaged carpet and oil based paint applied over a latex painted walls. I also accept the landlord's undisputed affirmed evidence that that each of the affected walls have to be entirely re-painted. I find on a balance of probabilities that the landlord has established a claim for the \$1,312.50 claim.

Conclusion

The landlords are granted a monetary order for \$1,312.50.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: September 17, 2020

Residential Tenancy Branch