



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S

Introduction

In this dispute, the landlord seeks a monetary order for unpaid rent and various cleaning costs pursuant to section 67 of the *Residential Tenancy Act* (the “Act”).

The landlord filed an application for dispute resolution on May 21, 2020 and a dispute resolution hearing was held on September 24, 2020. The landlord attended the hearing and was given a full opportunity to be heard, present affirmed testimony, make submissions, and call witnesses.

The tenant did not attend the hearing. However, I note that the Residential Tenancy Branch (the “Branch”) emailed a copy of the Notice of Dispute Resolution Proceeding to both parties on August 6, 2020 (after the first scheduled hearing was rescheduled). I further note that tenant’s email address that is on file, and the one to which the Branch sent the Notice of Dispute Resolution Proceeding, matches the tenant’s email address as contained in an invoice of the tenant’s woodworking business (an invoice which contained his forwarding address).

For these reasons, I find that the tenant was served with the Notice of Dispute Resolution Proceeding in a manner sufficient for the purposes of the Act.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issue of this application.

Issue

Whether the landlord is entitled to some or all of the compensation claimed.

Background and Evidence

By way of background, the tenancy began on May 1, 2019 and ended on February 29, 2020. The tenancy was intended to be a fixed term tenancy ending on April 30, 2020. Monthly rent was \$1,300.00, which was due on the last day of the month. The tenant paid a security deposit of \$650.00 that the landlord currently holds in trust pending the outcome of this dispute. A copy of the written tenancy agreement was submitted into evidence by the landlord.

In this dispute, the landlord seeks total compensation of \$1,572.13 for the following:

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| 1. Rent for March 2020 | \$1,300.00 |
| 2. Carpet cleaning | 141.75 |
| 3. E-transfer for cleaner | 45.00 |
| 4. Labour for cleaning (4 hours) | 60.00 |
| 5. Cleaning supplies | 25.38 |

The tenant gave unofficial notice on February 2, 2020 that he was moving out on February 15, 2020. He ended up moving out on February 29, 2020. As will be noted below, he did not give the landlord proper written notice to end the tenancy, and he ended the fixed term tenancy before it had expired. The tenant did not pay rent for March 2020. Copies of the tenant's correspondence were submitted into evidence.

After the tenant moved out the landlord had to clean the rental unit. Specifically, the carpets were in an awful condition, with the cleaner's UV light revealing a total of 17 stains. (The stains were either urine or semen). In order to clean the carpets back to an acceptable state the landlord paid \$45.00 for a professional cleaner, spent an additional four hours of her own time, and spent \$25.38 on cleaning supplies. The landlord testified, and affirmed the truth of her testimony, that the condition of the carpet at the end of the tenancy was significantly worse than at the start of the tenancy.

The landlord received the tenant's forwarding address on May 11, 2020. A copy of the forwarding address, which was contained in a letter from the tenant demanding the return of his security deposit, was submitted in evidence.

Submitted into evidence in support of her application was a Monetary Order Worksheet, receipts for the cleaning supplies, a copy of an e-transfer to the cleaner, and various other documentary evidence, including the letter to end the tenancy from the tenant.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

When an applicant seeks compensation under the Act, they must prove on a balance of probabilities all four of the following criteria before compensation may be awarded:

1. has the respondent party to a tenancy agreement failed to comply with the Act, regulations, or the tenancy agreement?
2. if yes, did the loss or damage result from the non-compliance?
3. has the applicant proven the amount or value of their damage or loss?
4. has the applicant done whatever is reasonable to minimize the damage or loss?

The above-noted criteria are based on section 7 of the Act which states as follows:

- 7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
- (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Claim for Unpaid Rent

Section 45(2) of the Act deals with the methods by which a tenant may end a fixed term tenancy. This section of the Act reads as follows:

A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, the tenant did not end the tenancy in accordance with the Act, and therefore he breached section 45(2) of the Act. But for the tenant's breach of the tenancy agreement, the landlord would not have suffered a loss of rent in the amount of \$1,300.00. The amount of rent is a certainty and established by the tenancy agreement and the landlord's testimony, which was undisputed.

Given that there was uncertainty, however, as to when the tenant would vacate the rental unit (he first said it would be on the 15th but then changed his mind and moved out on the 29th), I find that the landlord could not have done anything else to mitigate the loss of March's rent.

Taking into consideration all of the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving her claim for rent for March 2020 in the amount of \$1,300.00.

Claim for Compensation (for Cleaning Labour and Supplies)

Section 37(2) of the Act states that when a tenant vacates, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

The landlord testified that the carpets were not reasonably clean as they had been at the start of the tenancy. Documentary evidence from the professional cleaner substantiates the landlord's claims that the carpets had 17 semen and/or urine stains. These types of stains are not what may be considered reasonable wear and tear.

The tenant clearly breached 37(2) of the Act, and the landlord would not have suffered a loss of \$272.13 in cleaning costs and expenses but for that breach. The amounts have been proven by way of documentary evidence, and I find that the amounts are reasonable.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving her claim for compensation in the amount of \$272.13 related to cleaning the rental unit.

Summary of Award, Retention of Security Deposit, and Monetary Order

In summary, the landlord is awarded \$1,572.13 in compensation.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As the tenancy has long ago ended, I authorize the landlord to retain the tenant’s security deposit of \$650.00 in partial satisfaction of the above-noted award.

The balance of the award – \$922.13 – is granted to the landlord by way of a monetary order. This Order, which is issued in conjunction with this Decision (and which is issued only to the landlord), must be served by the landlord on the tenant. The order may be served by any method listed in [section 88](#) of the Act.

Conclusion

I hereby grant the landlord a monetary order in the amount of \$922.13, which must be served on the tenant.

If the tenant refuses to pay the landlord the amount owed, the landlord may file and enforce the order in the Provincial Court of British Columbia (Small Claims). The tenant will then be liable for additional costs related to court enforcement of the order.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: September 24, 2020

Residential Tenancy Branch