



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RE/MAX of Nanaimo Property
Management and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) by registered mail on June 11, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials on June 16, 2020. The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on March 1, 2015. At the outset of the tenancy the Landlord collected \$925.00 as a security deposit and the Parties mutually conducted a move-in inspection and report. Another tenancy agreement was entered into between the Parties starting September 1, 2018 for a fixed term to end August 31, 2021. Rent of \$2,800.00 was payable on the first day of each month. The Parties agreed to a move-out inspection for August 9, 2020. The Tenant were unable to attend that date and offered August 10, 2020 for the move-out inspection. The Landlord was unable to attend on that date and offered August 12, 2020 for the inspection. The Tenants agreed to this date but did not attend the unit for the inspection. The Landlord then posted a final notice for inspection for August 13, 2020 and the Tenants did not attend the inspection. The Landlord conducted the inspection and completed the report.

On May 31, 2020 Tenant MO gave notice to end the tenancy for September 30, 2020. The unit was immediately advertised on three online sites for the same rental rate and a tenancy start date of October 1, 2020. On July 4, 2020 the Tenant DT gave notice to end the tenancy for August 4, 2020. Tenant MO was then contacted, and the Parties agreed that Tenant MO would stay until September 30, 2020. On July 24, 2020 the Landlord obtained a new tenant for the start date of October 1, 2020 at the same rental rate. Upon learning that Tenant MO was moving out in August 2020 The Landlord contacted the new tenants to see if they could move in earlier, but they were unable to do so. The Landlord claims rents of \$5,600.00 for August and September 2020.

The Tenants failed to leave the carpet cleaned and the Landlord claims the cleaning cost of \$283.50. The Landlord provides the receipt.

The Tenants left the paint on the bedroom walls damaged and the Landlord claims \$169.46 as the costs to paint the walls. The unit was last painted approximately 4 years prior to the end of the tenancy.

The tenancy agreement requires the Tenants to pay the costs of garbage collection. The total amount is based on three rental units equally sharing the total cost charged to the Landlord by the city. The Landlord claims garbage costs of \$58.35 for May, June, July, August and September 2020 inclusive.

Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Based on the Landlord's undisputed evidence of the timing of the Tenants' notices to end tenancy, the confirmation of an ongoing tenancy to September 30, 2020 and the steps taken to find a new tenant for that date, I find that the Landlord has substantiated that the Tenants are responsible for the Landlord's rental income for August and September 2020. The Landlord is therefore entitled to **\$5,600.00**.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Based on the Landlord's undisputed evidence that the Tenants failed to leave the carpets cleaned and given the invoice I find that the Landlord is entitled to the cleaning costs of **\$283.50**. Based on the Landlord's undisputed evidence of the costs of the garbage collection, the tenancy terms that require the Tenants to pay for garbage collection and that the Tenants failed to do so, I find that the Landlord has substantiated the claim of **\$58.35**.

Policy Guideline #40 sets the useful life of indoor paint at 4 years. Based on the Landlord's undisputed evidence that the indoor paint of the bedroom was 4 years old at the end of the tenancy I find that the paint no longer had any useful life and the costs to

deal with the paint on the walls are the Landlord's costs. I dismiss the claim for \$169.46.

As the Landlord's application has met with substantial success, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$6,041.85**. deducting the security deposit plus zero interest of **\$925.00** from this amount leaves **\$5,116.85** owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$925.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$5,115.85**. If necessary, this order may be filed in the 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 Act.

Dated: October 05, 2020

Residential Tenancy Branch