



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIRSTSERVICE RESIDENTIAL BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on May 22, 2020, wherein the Landlord sought monetary compensation from the Tenant for cleaning of the rental unit as well as authority to retain the Tenant's security deposit towards any amounts awarded.

The hearing of the Landlord's Application was scheduled for teleconference at 1:30 p.m. on September 25, 2020. Only the Landlord's Property Manager, S.M., called into the hearing. She gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 1:43 p.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that S.M. and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that they served the Tenant with the Notice of Hearing and the Application on May 25, 2020 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

S.M. testified that the registered mail was delivered to the Tenant on May 27, 2020. I find the Tenant was duly served as of that date and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by S.M. and relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord be authorized to retain the Tenant's security deposit?

Background and Evidence

S.M. provided the following testimony on behalf of the Landlord.

The tenancy began June 28, 2016. Monthly rent was payable in the amount of \$471.00 and the Tenant paid a \$252.00 security deposit. The tenancy ended on April 30, 2020.

S.M. stated that although the Tenant participated in the move out condition inspection, she refused to sign the report. A copy of the report was provided in evidence before me.

The Landlord also provided photos taken by the building manager during the move out condition inspection. These photos show areas where further cleaning was required.

In the claim before me the Landlord sought monetary compensation for cleaning of the rental unit in the amount of \$275.00.00, \$160.00 for carpet cleaning and \$120.00 for cleaning of the drapes for a total claim of \$555.00.

Analysis

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

www.gov.bc.ca/landlordtenant.

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- proof that the damage or loss exists;
- proof that the damage or loss occurred due to the actions or neglect of the responding party in violation of the *Act* or agreement;
- proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- proof that the applicant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

Section 37(2) of the *Act* requires a tenant to leave a rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy and reads as follows:

- 37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.
- (2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

After consideration of the Landlord's undisputed evidence and the testimony and submissions of S.M. I find as follows.

I find the Tenant did not clean the rental unit as required by section 37. I accept the Landlord's evidence that further cleaning was required. I am persuaded by the photos submitted by the Landlord, the contents of the condition inspection report and the testimony of the Landlord's Property Manager.

I therefore award the Landlord compensation for cleaning of the rental unit in the amount of \$275.00.00, \$160.00 for carpet cleaning and \$120.00 for cleaning of the drapes for a total claim of \$555.00.

Conclusion

Pursuant to sections 38 and 72 of the *Act* I authorize the Landlord to retain the Tenant's \$252.00 security deposit towards the \$555.00 awarded and I grant the Landlord a Monetary Order for the **\$303.00** balance due.

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: October 14, 2020

Residential Tenancy Branch