



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's pet deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenants acknowledged receipt of evidence submitted by the landlord; the tenants did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's pet deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on April 1, 2020 and ended on May 24, 2020. The tenants were obligated to pay \$880.00 per month in rent in each for a total of \$1760.00 in advance and at the outset of the tenancy the tenants paid a \$200.00 pet deposit that the landlord still holds. DR testified that the parties in this hearing were subtenants to her own tenants. DR testified that due to the pandemic and the difficulty for her own tenants, she allowed the two individuals to rent two rooms in the home.

DR testified that the tenants left the unit filthy with animal feces throughout. DR testified that condition inspection reports were done at move in and move out but was unable to submit those reports for this hearing. DR testified that the tenants damaged cherry trees and some landscaping on the property. DR testified that the situation caused her a lot of stress requiring the need to seek medical attention. DR testified that she seeks compensation for the emergency flight and accommodation cost she incurred to come to Vancouver as she resides in Ontario. DR testified that she is also seeking financial compensation for the stress to deal with this issue.

HR testified that she came to the home on May 21, 2020 to find that the tenants had taken all the keys and found a strange man in the home that wasn't a tenant. HR testified that at the advice of the police, she had the locks changed. HR testified that the tenants attempted to change the locks back the same day. HR testified that if the tenants had responded to her calls or had left the keys in the home as directed the issue of the locks could have been avoided. SA testified that he lives in Ontario and has never been to the subject unit and had no first-hand knowledge of the events.

The landlord is applying for the following:

1.	Carpet Cleaning	\$350.00
2.	Gardening	375.00
3.	Suite Cleaning	400.00
4.	Locksmith	678.00
5.	Unpaid Rent	3860.65
6.	Accommodation	707.00
7.	Westjet	2066.30
8.	Doctor consultation	500.00

9.	Protection bylaw trees	1000.00
10.	Mental and Emotional Stress	5000.00
11.	Filing fee	100.00
	Total	\$15,036.95

The tenants gave the following testimony. AM testified that the landlord has filed this application as a retaliatory means and that they should not be entitled to any money. AM testified that the landlord was difficult to deal with and never offered an opportunity to resolve the matter. RZ testified that the home was already damaged when they moved in and that the landlord did not do a condition inspection report at anytime with them. RZ testified that they were away for a day when the landlords daughter changed the locks. RZ testified that the matter could have been avoided had the landlord communicated with them.

Analysis

The relationship between these two parties is an acrimonious one. Both parties were cautioned numerous times about their behaviour and demeanour during the hearing. At times the parties were in a highly charged screaming match with each making allegations of “liar and fraud” to each other. The parties were more intent on arguing with each other than answering questions or presenting their position.

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 arguments are reproduced here. The principal aspects of the landlord’s claim and my findings around each are set out below.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the landlord’s claims and my findings around each as follows.

Carpet Cleaning & Gardening damages \$350.00 & \$375.00

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

In relation to the condition of the rental unit, I find that in the absence of a documented move in and move out Condition Inspection Report or other documentary evidence to confirm the condition at the start of the tenancy the landlord has not provided sufficient evidence to support that the tenants caused any damage to the rental unit or the garden and trees at the end of the tenancy, and therefore dismiss that portion of the claim.

However, Residential Tenancy Policy Guideline #1 states that tenants may be expected to steam clean or shampoo carpets at the end of a tenancy, regardless of the length of tenancy, if they have pets which were not caged or if they smoke in the unit. The tenants acknowledged that they had pets and that they didn't have the carpets steam cleaned or shampooed. Therefore, I find the tenants are responsible for carpet cleaning. I find that the amount claimed by the landlord is reasonable; accordingly, I grant the landlord \$350.00.

Cleaning, disinfect, sanitize suite \$400.00

It was explained in great detail to the landlord the vital and useful nature of the inspection report. Without the condition inspection report or any other supporting documentation, I am unable to ascertain the changes from the start of tenancy to the end of tenancy, if any. The landlord has not provided sufficient evidence to support this portion of his claim and I therefore dismiss this portion of their application.

Locksmith Services \$678.00

The landlord testified that they were advised by the police to change the locks as they could not find all of the keys to the unit and because of an unknown individual inside the unit. The landlord acknowledged that the tenants paid the rent for the month of May therefore giving the tenants legal right to access the unit until the end of the month. The confusion about the keys occurred on May 21, 2020 leaving ten days to resolve the issue. I find that the landlords overreacted in changing the locks and did not make sufficient efforts to contact the tenants to resolve it. I find that the landlord has not provided sufficient evidence to show that the costs of changing the locks was a result of the tenants' negligence and therefore this portion of her application is dismissed.

Unpaid Rent for May \$3860.65

The landlord's own documentation clearly reflects a tenancy agreement that requires the tenants to each pay \$880.00 per month. The landlord gave sworn testimony that the tenants paid their full share for the month of May, accordingly; I find that the tenants have paid what they are responsible for and no further rent is due. This portion of the landlords application is dismissed.

Accommodation, Westjet, Doctor consultation, Bylaw for Trees, total amount - \$4273.30

The landlord testified that she incurred these costs as a result of the tenants actions, however the landlord did not provide copies of the bills or receipts to corroborate this amount. Due to the insufficient evidence before me on this date, I hereby dismiss the above claims.

Mental & Emotional Stress - \$5000.00

The landlord testified that a "human rights activist" advised her that she should seek the amount as claimed. The landlord did not provide sufficient evidence to display that the tenants were responsible for the damages as claimed nor did she provide sufficient evidence to show that the amount sought was justified and reasonable. In light of the above, I dismiss this portion of the application.

As the landlord was partially successful in their application, they are entitled to the recovery of the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$450.00. I order that the landlord retain the \$200.00 pet deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$250.00. 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 *Residential Tenancy Act*.

Dated: October 15, 2020

Residential Tenancy Branch