



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associa BC Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on July 13, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord's Agent C.D. and the Tenant attended the hearing at the appointed date and time. At the beginning of the hearing, the Tenant confirmed receipt of the Landlord's Application and documentary evidence package. As such, I find that the above mentioned documents were sufficiently served pursuant to Section 71 of the Act. The Tenant confirmed that she did not submit any documentary evidence in preparation for the hearing.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on December 15, 2018. During the tenancy, the Tenant was required to pay rent to the Landlord in the amount of \$2,250.00 which was due on the first day of each month. The Tenant paid a security deposit in the amount of \$1,125.00 which the Landlord continues to hold. The tenancy ended on June 30, 2020.

The Landlord is claiming monetary compensation in the amount of \$734.32 in relation to two items which required repair at the end of the tenancy.

The Landlord's Agent stated that after conducting the move out inspection with the Tenant, she removed a floor mat which revealed a large carpet stain which had been concealed under the mat. The Landlord's Agent stated that she tried to remove the stain professionally to no avail. The Landlord's Agent stated the carpet needed to be replaced as a result of the stain not coming out. The Landlord provided pictures of the stain, the condition inspection report, as well as a receipt in the amount of \$587.84 to replace the carpet.

The Tenant responded by stating that the stain was there at the start of the tenancy and she denied causing the stain. The Tenant stated that the previous property manager told her that the stain could easily be covered up during the tenancy and that there is no reason for concern. The Tenant acknowledged that the stain was not noted on the move in condition inspection report.

The Landlord's Agent stated that the Tenant had removed a light fixture during the tenancy, however, failed to replace the light fixture at the end of the tenancy. The Landlord's Agent stated that the Tenant left the light fixture on the ground below where the light would usually be installed. The Landlord's Agent stated that she employed an electrician to install the light fixture at a cost of \$146.48. The Landlord provided a receipt and pictures in support.

In response, the Tenant stated that she did not have a ladder therefore did not reinstall the light fixture at the end of the tenancy. The Tenant stated that the install would not require a great deal of effort, therefore, does not agree with the price of installing the light fixture.

If successful, the Landlord is seeking the return of the filing fee paid to make the Application, as well as to retain a portion of the Tenant's security deposit in satisfaction of their claims.

Analysis

Based on the oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

The Landlord is claiming \$587.84 to replace the carpet as a result of a stain which occurred during the tenancy. The Tenant denied causing the stain and stated that it was there prior to the commencement of the tenancy. Furthermore, the Tenant stated that the previous property manager was aware of the stain during the move in inspection of the rental unit but did not make note of it.

In this case, I find that the Tenant provided insufficient evidence to demonstrate that the stain was present prior to the commencement of the tenancy. Instead, I accept the Landlord's evidence that according to the condition inspection report that the carpet was in good condition at the start of the tenancy. I am satisfied that the carpet required replacement as a result of the stain. As such, I find that the Landlord is entitled to monetary compensation in the amount of **\$587.84** to replace the carpet.

The Landlord is claiming \$146.48 after hiring an electrician to install the light fixture that had been removed by the Tenant during the tenancy. I accept that the parties agreed that the Tenant removed the light fixture during the tenancy, and did not replace the

light fixture at the end of the tenancy. As such, I find that the Landlord is entitled to monetary compensation in the amount of **\$146.48** to reinstall the light fixture.

Having been successful, I find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlord retain \$834.32 from the \$1,125.00 security deposit held in satisfaction of the claim ($\$1,125.00 - \$834.32 = \$290.68$)

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$290.68, which represents the remaining balance of their security deposit less the previously mentioned deductions.

Conclusion

The Landlord has established an entitlement to monetary compensation in the amount of \$834.32 which has been deducted from the security deposit. The Tenant is granted a monetary order in the amount of \$290.68 which represents the remaining balance of the Tenant's security deposit. The order should be served to the Landlord as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 05, 2020

Residential Tenancy Branch