



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL-S, MNDL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on August 17, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent;
- a monetary order for damage or loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on December 10, 2020 as a teleconference hearing. Only the Landlord appeared at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 20 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only persons who had called into this teleconference.

The Landlord stated that the Application and documentary evidence package was served to the Tenant by registered mail on August 21, 2020. The Landlord provided the Canada Post tracking information during the hearing. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the above-mentioned documents on August 26, 2020 pursuant to the *Act*. The Tenant did not submit any documentary evidence in response to the Application.

Issues to be Decided

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

Background and Evidence

The Landlord testified that the tenancy started on February 1, 2005. Near the end of the tenancy, the Tenant was required to pay rent in the amount of \$825.00 which was due on the first day of each month. The Landlord stated that the Tenant paid a security deposit at the start of the tenancy in the amount of \$297.50, which the Landlord continues to hold. The Landlord stated that the tenancy ended on July 31, 2020.

The Landlord is seeking \$120.00 in relation to unpaid rent. The Landlord stated that the Tenant was provided with a notice of rent increase, which took effect on January 1, 2020. The Landlord stated that the Tenant refused to pay the additional \$20.00 from January to June 2020. The Landlord stated that the Tenant paid the full amount of rent in July 2020. Therefore, the Landlord is seeking \$20.00 x 6 months for a total of \$120.00. The Landlord provided a copy of the rental ledger in support.

The Landlord is also claiming \$682.50 to repair damage to a wall and door which was caused by the Tenant during the tenancy. The Landlord provided pictures of the damaged wall and door, as well as a receipt in support.

The Landlord is claiming \$50.00 for to replace a key that the Tenant had bent during the tenancy. The Landlord stated that the keys are unique and specialized, therefore cost more to replace. The Landlord provided a receipt in support.

Lastly, the Landlord is seeking \$823.53 in relation to replacing the carpet in the rental unit. The Landlord stated that the carpet had been installed in 2004, however, at the end of the tenancy, the carpet was in very poor condition. The Landlord stated that he provided an invoice in support, however, upon further review, the Landlord had provided a receipt for a different unit and was for a different monetary amount.

If successful, the Landlord is seeking the return of the filing fee paid to make the Application. No one appeared for the Tenant to dispute the Landlord's claims.

Analysis

Based on the uncontested 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.

Section 37(2) of the *Act* stated that 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.

Section 26 of the Act states that a Tenants must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

The Landlord is claiming \$120.00 in relation to the Tenant failing to pay the rent increase of \$20.00 from January to June 2020. As I have no evidence before me that the Tenant was entitled to withhold this amount, I find that the Landlord is entitled to compensation for unpaid rent in the amount of **\$120.00**.

The Landlord is claiming \$682.50 to repair damage to a wall and door which was caused by the Tenant during the tenancy. I find that the evidence provided by the Landlord would indicate that the damage to the wall and door in the rental unit exceeds what could be considered reasonable wear and tear. As such, I find that the Landlord is entitled to monetary compensation in the amount of **\$682.50** to repair the wall and door.

The Landlord is claiming \$50.00 for to replace a key that the Tenant had bent during the tenancy. I find that the Landlord has provided sufficient evidence to support that they have suffered a loss and therefore are entitled to monetary compensation in the amount of **\$50.00** to replace the Tenant's damaged key.

Lastly, the Landlord is seeking \$823.53 in relation to replacing the carpet in the rental unit. I find that the Landlord provided a proposal dated June 6, 2018 to replace the carpet in a different rental unit, at a cost that was different than what the Landlord was claiming for. I am not satisfied with the value of the loss that the Landlord is claiming for, therefore, I dismiss the Landlord's claim for carpet replacement without leave to reapply.

Having been partially 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 the security deposit in partial satisfaction of the claim.

During the hearing, the Landlord confirmed that the Tenant paid a security in the amount of \$297.50 on February 1, 2005. I find that the Landlord owes the Tenant \$10.53 of interest, bringing the total value of the security deposit held by the Landlord to \$308.03.

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$644.47, which has been calculated below;

Claim	Amount
Unpaid rent:	\$120.00
Damage repair:	\$682.50
Key replacement:	\$50.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	<i>-\$308.03</i>
TOTAL:	\$644.47

Conclusion

The Landlord has established an entitlement to monetary compensation and have been provided with a monetary order in the amount of **\$644.47**. The order should be served to the Tenant 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: December 10, 2020

Residential Tenancy Branch