



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on October 5, 2020 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- a monetary order for damage, compensation, 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 January 25, 2021 as a teleconference hearing. Only the Landlord J.G. attended the hearing at the appointed date and time. No one appeared for the Tenants. The conference call line remained open and was monitored for 11 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.

Preliminary Matters

On October 27, 2020 the Landlords were granted an Order for Substituted Service permitting the Landlords to serve the Tenants with the Notice of Hearing and documentary evidence, by Registered Mail to the address provided for the Tenants' business.

At the start of the hearing, the Landlord stated that he served the Tenants via Registered Mail on October 30, 2020 to their place of business. The Landlords provided a copy of the Registered Mail receipts in support. Based on the oral and written

submissions of the Applicants, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Notice of Hearing and documentary evidence on November 4, 2020, the fifth day after their registered mailings. The Tenants did not submit documentary evidence in response to the Application.

The Landlord was 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. Are the Landlords entitled to a monetary order for damage compensation or loss, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to a monetary order for unpaid rent and utilities, pursuant to Section 67 of the *Act*?
3. Are the Landlords entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
4. Are the Landlords 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 began on January 1, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$2,000.00 to the Landlords on the first day of each month. The Tenants paid a security deposit in the amount of \$1,000.00 which the Landlords continue to hold. The Landlord stated that the tenancy ended on August 31, 2020.

The Landlords are seeking monetary compensation in the amount of \$4,000.00 in relation to unpaid rent for July and August 2020. The Landlords provided a copy of the tenancy agreement to demonstrate that amount of rent owed, as well as a rental ledger in support of the rent not paid.

The Landlords are claiming \$423.29 in relation to unpaid utilities. The Landlord stated that the Tenants are required to pay utilities to the Landlords throughout the tenancy.

The Landlords provided a copy of each unpaid bill in support and stated that the Tenant failed to pay contrary to the tenancy agreement.

The Landlords are claiming \$546.00 for repairs to some of the walls and ceilings in the rental unit. The Landlords provided a copy of the condition inspection report, pictures of the damage in the rental unit, and a receipt in support.

The Landlords are claiming \$252.00 for cleaning costs associated with cleaning the rental unit at the end of the tenancy. The Landlords provided a receipt in support. The Landlord stated that he was also required to dispose of a couple loads of garbage which was left behind by the Tenants at the end of the tenancy. The Landlords provided receipts in support of the combined amount of \$260.35.

No one appeared for the Tenants to dispute the Landlords' 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 Landlords 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 Tenants. Once that has been established, the

Landlords must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlords did what was reasonable to minimize the damage or losses that were incurred.

Section 26 of the Act states that a Tenant 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 Landlords are claiming \$4,000.00 for unpaid rent after the Tenants failed to pay rent in the amount \$2,000.00 in July and August 2020. As I have no evidence that the Tenants had the right to deduct any portion of the rent, I find that the Landlords are entitled to compensation in the amount of **\$4,000.00** for unpaid rent.

The Landlords are claiming \$423.29 in relation to unpaid utilities. I accept that the Tenants were required to pay utilities to the Landlords according to the tenancy agreement. I accept that the Tenants failed to do so. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$423.29** for unpaid utilities.

Section 37(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.**

The Landlords are claiming \$546.00 for repairs to some of the walls and ceilings in the rental unit at the end of the tenancy. I find that the Landlords have provided sufficient evidence of the condition of the rental unit prior to the commencement of the tenancy as opposed to at the end of the tenancy. I find that it is more likely than not that the Tenants caused damage to the rental unit and I find that the Landlords are entitled to monetary compensation in the amount of **\$546.00**.

The Landlords are claiming \$252.00 for cleaning costs to clean the rental unit at the end of the tenancy. The Landlords are also claiming for the cost associated with the removal of garbage from the rental unit \$260.35. In this case I find the Landlords provided sufficient evidence to demonstrate that the Tenants left garbage and the rental unit left

dirty at the end of the tenancy. As such, I find that the Landlords are entitled to compensation for cleaning and garbage removal in the amount of **\$512.35**.

Having been successful, I find the Landlords are 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 Landlords retain the security deposit in the amount of \$1,000.00 in partial satisfaction of the claim.

Pursuant to section 67 of the *Act*, I find the Landlords are entitled to a monetary order in the amount of \$4,581.64, which has been calculated below;

Claim	Amount
Unpaid rent:	\$4,000.00
Unpaid utilities:	\$423.29
Damage repair:	\$546.00
Cleaning/Garbage Removal	\$512.35
Filing fee:	\$100.00
<i>LESS</i> security deposit:	<i>-(\$1,000.00)</i>
TOTAL:	\$4,581.64

Conclusion

The Landlords have established an entitlement to monetary compensation and have been provided with a monetary order in the amount of **\$4,581.64**. The order should be served to the Tenants 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: January 25, 2021

Residential Tenancy Branch