



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL, FFL

Introduction

The landlord filed an application for Dispute Resolution (the “Application”) on December 3, 2020 seeking an order to recover monetary loss for unpaid rent and compensation for other money owed by the tenant. Additionally, they applied for reimbursement of the Application filing fee.

The matter proceeded by way of a hearing on March 25, 2021 pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the hearing; the tenant did not attend. The tenant did not submit or serve documents as evidence for this hearing.

In the hearing, the landlord confirmed they delivered notice of this hearing to the tenant. This was by registered mail, delivered on December 31, 2020 as shown in the tracking information they provided, showing the tenant’s signature. In the hearing, they confirmed this service package included their prepared evidence.

In consideration of the evidence presented by the landlord, and with consideration to s. 89 of the *Act*, I find the landlord served with the notice of this hearing, and their prepared evidence.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage caused by the tenant, pursuant to s. 67 of the *Act*?

Is the landlord entitled to recovery of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The landlord submitted a copy of the tenancy agreement for this hearing and spoke to its terms. Both the landlord and tenant signed this agreement on August 18, 2016. The tenancy started on August 1, 2016. As set out in the tenancy agreement, the monthly rent is based on the tenant's income. This tenant was receiving income assistance, and on that basis the rent was a flat rate, at \$551. The tenant did not pay any security or pet damage deposit.

The landlord testified that the tenancy ended as a result of The September 13, 2019 note from the tenant advising of their move to a new place, effective October 1. The landlord followed up with this on September 19, 2019 in a formal letter advising the tenant that they will be charged for the full month of October rent, if certain conditions were not met. These were: removal of all belongings including garbage; cleaning of unit; attending a move out inspection; and providing a forwarding address.

The landlord provided a copy of the Condition Inspection Report. This is dated October 3, 2019 for the inspection that took place on that date. This document was signed by both the landlord and tenant. This report lists a number of items that require cleaning, replacement, or repair. At the final inspection meeting, the tenant signed and acknowledged the completion of this report showing the listed items. Additionally, they provided their forwarding address on this document, immediately below their signature.

In the hearing the landlord explained the "charge back" system in place. A tenant could accrue charge back amounts for money owing for miscellaneous reasons. These are expenses that are immediately paid by the landlord, and then the agreement is that a tenant will repay the landlord in a set repayment agreement. This can include unpaid rent amounts, move-out charges, or expenses paid by the landlord for any work completed stemming from damage caused by the tenant.

On October 28, 2020, the landlord sent the tenant a letter that outlined amounts owing, stemming from the tenancy that ended one year earlier. The landlord explained that this is a final notice, giving the tenant one month to pay the outstanding amount owing. The letter advised that, without payment within 30 days, the landlord would pursue dispute resolution to receive a monetary order.

The items on the landlord's claim for monetary compensation are as follows:

- \$383.40 is an amount carried over from February 2019, from a repayment agreement signed by the tenant and landlord on February 25, 2019. That amount owing was originally \$833.40, but over the course of 2019 and on into the following year the tenant paid \$450 from that original balance
- \$780 for move out debris and cleaning – primarily this is debris removal. The landlord provided photos depicting debris left behind by the tenant in the unit. The landlord provided a receipt dated December 9, 2020 for this amount, showing 26 hours of work at \$30 per hour.
- \$260 for replacement door jambs. As shown in photos, the door jambs were damaged beyond repair. The landlord charged back 65% of the total amount shown in a repair invoice. The invoice is dated November 20, 2020.
- \$455.38 for screen replacements. Photos show damaged screens that are haphazardly attached to a rudimentary frame, with noticeable holes. There are several pictures of windows that have no screens attached. A receipt dated November 30, 2019 shows six screens purchased, and the landlord charged back one hour for labour here.
- \$175.00 for drywall repairs. This is shown from a number of photos. This invoice date is August 5, 2020 and refers to an earlier quote.
- \$593.73 is for "cove base replacement". This is a strip that runs along the bottom of the walls. The landlord provided that the tenant chose to detach these in the unit before move out. This charge is for the parts and labour, invoiced on October 16, 2019. The photos show the need for this replacement and repair.

Each of the above items is listed in the Condition Inspection Report that the landlord completed on October 3, 2019. In the hearing, the landlord reiterated that the tenant signed this condition report on October 3, 2019. They stated this is "confirmation" from the tenant that the damages are as they are listed.

The total amount of the above listed items is \$2,647.51. This is the same total that was provided to the tenant in the October 28, 2020 "charge back" confirmation letter.

The tenant did not attend the hearing and did not provide documentary evidence prior to the hearing date.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

The *Act* s. 37(2)(a) provides that when vacating a unit, the tenant must “leave the rental unit reasonably clean.” Also, the tenant must give the keys to the landlord and allow access to the rental unit as per s. 37(2)(b).

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. The landlord provided the specific term of the rental amount. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

I find the landlord is legitimately entitled to the amount for damages accrued over the course of the tenancy. On my review, these are damages that the tenant acknowledged at the time of an inspection on moving out, on October 3, 2019. The photos show damage that is beyond reasonable wear and tear. This loss for each listed amount would not have occurred but for the tenant’s breach of the tenancy agreement, consisting of outstanding damage to the rental unit. This amount of compensation to the landlord is in line with the principle of awards “sufficient to put the landlord in the same position as if the tenant had not breached the agreement.” In fact, the receipts show the landlord mitigated the expenses to a large extent. This amount so awarded is \$2,647.51.

I find the landlord’s claimed amounts are accurate and verified by the evidence they provided. I give substantial weight to their testimony in the hearing, the evidence in the form of receipts, and photos.

This amount for \$2,647.51 represents damages and loss that deserve recompense to the landlord because they stem from the tenant breaching the tenancy agreement. They are significant costs borne and paid for by the landlord. This is the result of the tenant breaching s. 37(2) of the *Act*. The landlord shall receive this amount for compensation.

Because they were successful in their Application, I award the landlord \$100 for the cost of their Application filing fee.

Conclusion

Pursuant to s. 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,747.51. The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 s. 9.1(1) of the *Act*.

Dated: March 25, 2021

Residential Tenancy Branch