



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on November 25, 2020 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The hearing was scheduled for 1:30 PM on March 18, 2021 as a teleconference hearing. The Landlords 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 24 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 Landlords and I were the only persons who had called into this teleconference.

The Landlords testified the Tenants did not provide the Landlords with their forwarding address. The Landlords stated that they became aware of the Tenants' new address by following them while they were moving their possession at the end of the tenancy. As such, the Landlords stated they were able to attend the Tenants' new address on December 6, 2020 to serve the Tenants in person with the Application and documentary evidence package. The Landlords provided a witnessed proof of service in support of each Tenant being served. 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 above-mentioned documents on December 6,

2020. The Tenants did not submit any documentary evidence in response to the Application.

The Landlords 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. 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, pursuant to Section 67 of the *Act*?
3. Are the Landlords entitled to retaining the security and pet damage 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 Landlords testified that the tenancy began on September 7, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$2,400.00 to the Landlords on the first day of each month. The Tenants paid a security deposit in the amount of \$1,200.00 and a pet damage deposit in the amount of \$400.00 which the Landlords continue to hold. The Landlords stated that the tenancy ended on April 29, 2020. The Landlords stated that the Tenants did not provide their forwarding address in writing.

The Landlord submitted a monetary worksheet with their Application which contains all of their monetary claims which have been outlined below;

The Landlords are claiming \$8,464.00 for unpaid rent. The Landlords stated that the Tenants failed to pay rent in full during January, February, March, and April 2020. The Landlords referred to a previous hearing settlement agreement dated April 17, 2020 in which the parties agreed that the Tenants had failed to pay rent in the amount of \$8,464.00. The Landlords provided a copy of the settlement agreement in support. It

was clarified during the hearing that the Landlords had not yet applied for the unpaid rent and that the parties had only agreed to end the tenancy by mutual agreement.

The Landlords are claiming \$4,179.00 in relation to repairs made to the rental unit. The Landlords stated they were required to repair drywall, prep and paint the majority of the rental unit, repaint doors and trim, replace a broken bathroom door, readjust a closet door, install a new door seal, replace three exterior gates, and replace a broken dishwasher. The Landlords provided pictures as well as an invoice in support of the costs associated with the repairs.

The Landlords are claiming \$2,400.00 for loss of rent for May 2020 as the Landlords had to conduct extensive work to the rental unit due to the damage caused by the Tenants. The Landlords stated that they worked as fast as possible to repair the rental unit in order to be able to conduct showings and attract potential occupants. The Landlords stated that they were successful in finding a new occupant as of June 1, 2020.

The Landlords are claiming \$150.00 for cleaning as the Tenants left the rental unit unclean at the end of the tenancy. The Landlords provided pictures and an invoice for the cleaning in support. The Landlords provided two witness statements outlining the repairs and cleaning that were required at the end of the tenancy. The Landlords stated that the Tenants agreed to the condition of the rental unit at the start of the tenancy which is found in the addendum to the tenancy agreement which was provided in support. The Landlords stated that the rental unit was newly renovated and clean at the start of the tenancy.

The Landlords are claiming \$1,316.70 to replace the carpet in the rental unit. The Landlords stated that the carpet was newly installed at the start of the tenancy. At the end of the tenancy, the Landlords found that the carpet had burn marks and was snagged in some areas, causing the threads to come undone. The Landlords stated that they had a flooring specialist attend the rental unit to assess the damage at which point it was decided that the carpet needed to be replaced. The Landlords provided an invoice to replace the carpet in support.

The Landlords are seeking to retain the Tenants' deposits towards their claims as well as to recover the filing fee paid to make the Application. No one appeared for the Tenant 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 \$8,464.00 for unpaid rent. The Landlords stated that the Tenants failed to pay rent in full during January, February, March and April 2020. The Landlords referred to a previous hearing settlement agreement dated April 17, 2020 in which the parties agreed that the Tenants had failed to pay rent in the amount of \$8,464.00. I find that the Landlords have provided sufficient evidence to demonstrate that the Tenants failed to pay rent when due contrary to Section 26 of the *Act*. As such I

find that the Landlords are entitled to monetary compensation in the amount of **\$8,464.00.**

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 \$4,179.00 in relation to repairs made to the rental unit. I find that the Landlords have provided sufficient evidence to demonstrate that the rental unit was in good condition at the start of the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that the Tenants damage the rental unit beyond what could be considered reasonable wear and tear by the end of the tenancy. I accept that the Landlords were required to repair the damage and find that the Landlords are entitled to monetary compensation in the amount of **\$4,179.00.**

The Landlords are claiming \$2,400.00 for loss of rent for May 2020 as the Landlords had to conduct extensive work to the rental unit due to the damage caused by the Tenants. I find that it is reasonable to expect that the repairs made by the Landlords were necessary and required a fair amount of time to complete, delaying their ability to find a new occupy to occupy the rental unit until June 2020. As such, I find that the Landlords are entitled to monetary compensation for the loss of rent for May 2020 in the amount of **\$2,400.00.**

The Landlords are claiming \$150.00 for cleaning as the Tenants left the rental unit unclean at the end of the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that the rental unit required further cleaning. As such, I find that the Landlords are entitled to compensation in the amount of **\$150.00** for cleaning.

The Landlords are claiming \$1,316.70 to replace the carpet in the rental unit. The Landlords stated that the carpet was newly installed at the start of the tenancy. At the end of the tenancy, the Landlords found that the carpet had burn marks and was snagged in some areas, causing the threads to come undone. I find that the Landlords have provided sufficient evidence to demonstrate that the carpet was damaged by the Tenants throughout the tenancy which required replacement. I find that the Landlords are entitled to compensation in the amount of **\$1,316.70.**

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 and pet damage deposit in the amount of \$1,600.00 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 \$15,009.70, which has been calculated below;

Claim	Amount
Unpaid Rent:	\$8,464.00
Loss of Rent:	\$2,400.00
Repairs:	\$4,179.00
Cleaning:	\$150.00
Carpet Replacement:	\$1,316.70
Filing Fee:	\$100.00
<i>LESS</i> Security/Pet Deposit:	<i>-(\$1,600.00)</i>
TOTAL:	\$15,009.70

Conclusion

The Landlords have established an entitlement to monetary compensation and have been provided with a monetary order in the amount of **\$15,009.70**. 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: March 18, 2021

Residential Tenancy Branch