



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals LTD and
[tenant name suppressed to protect privacy]

DECISION

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

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for money owed or compensation monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord's agent, MI ("landlord"), attended the hearing by way of conference call, the tenant did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 one who had called into this teleconference.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing. In accordance with section 89 of the *Act*, I find that the tenant duly served with the landlord's application. The landlord confirmed receipt of the tenant's evidence package for this hearing. In accordance with section 88 of the *Act*, I find the landlord duly served with the tenant's evidence package.

The landlord testified that the tenant was served with the dispute resolution package on December 17, 2020 by way of registered mail to the forwarding address provided by the tenant. The landlord provided the tracking information and receipt in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the package on December 22, 2020, 5 days after mailing. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy originally began as a fixed-term tenancy on September 1, 2019, and converted to a month-to-month tenancy after August 31, 2020. Monthly rent was set at \$1,900.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$950.00, which was returned to the tenant in full at the end of the tenancy.

The landlord testified that the tenant moved out on or about November 30, 2020. The landlord provided the written notice from the tenant dated November 3, 2020 that the tenant would be vacating the rental unit on November 30, 2020. The landlord testified that they had attended on November 30, 2020 to find the keys dropped off, and the unit vacated. As a result of the late notice, the landlord testified that they were unable to fill the vacancy for December 2020 and as a result lost a month of rental income.

The landlord testified that the tenant failed to leave the rental unit in reasonably clean and undamaged condition, and left behind a bed and mattress. The landlord provided detailed evidence including photos, receipts, and the condition inspection reports to support their claim.

The landlord is seeking a monetary order for the following losses:

Item	Amount
Loss of December 2020 Rent	\$1,900.00
Furniture Removal	100.00
Broken drapes	100.00
Cleaning and supplies	600.00
Painting	600.00
Repairs	100.00
Filing Fee	100.00
Total Monetary Order Requested	\$3,500.00

Analysis

Section 44 of the *Residential Tenancy Act* reads in part as follows:

44 (1) A tenancy ends only if one or more of the following applies:

- (a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:...
- (b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;
- (c) the landlord and tenant agree in writing to end the tenancy;...

Section 45(1) deals with a Tenant's notice in the case of a periodic tenancy:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

While the tenant notified the landlord that they were ending the tenancy, they did not end it in a manner that complies with the *Act*, as stated above. The tenant did not give at least one month's notice to the landlord as required by section 45 of the *Act*. The landlord did not mutually agree to end this tenancy in writing, nor did the tenant obtain an order from the Residential Tenancy Branch for an early termination of this tenancy. No previous applications for dispute resolution have been filed by the tenant in regards to this tenancy, nor do I find this tenancy frustrated.

The evidence is clear that the tenant did not comply with the *Act* in ending this, and I therefore, find that the tenant vacated the rental unit contrary to Sections 45 of the *Act*.

I find further that the evidence shows that as a result of the tenant's actions, the landlord suffered a rental loss. I therefore allow the landlord's claim for a monetary order for loss of rental income for December 2020 in the amount of \$1,900.00 due to the tenant's failure to comply with section 45 of the *Act*.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I am satisfied that the landlord provided sufficient evidence to support the monetary losses claimed in this dispute. Accordingly, I allow the landlord a monetary order for the losses associated with the tenant's failure to comply with the *Act*.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. Accordingly, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I issue a Monetary Order in the amount of \$3,500.00 in the landlord's favour under the following terms for losses associated with the tenant's failure to comply with the *Act*.

Item	Amount
Loss of December 2020 Rent	\$1,900.00
Furniture Removal	100.00
Broken drapes	100.00
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Painting	600.00
Repairs	100.00
Filing Fee	100.00
Total Monetary Order	\$3,500.00

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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 28, 2021

Residential Tenancy Branch