



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND-S, FF

Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for alleged damage to the rental unit by the tenants;
- authority to keep the tenants' security deposit to use against a monetary award; and
- recovery of the filing fee.

The landlord AA attended the hearing; however, the tenants did not attend.

The landlord stated he served each tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on December 18, 2020, to the address the tenants provided to the landlords after the tenancy ended. The landlord provided the Canada Post Customer Receipts containing the Tracking Numbers to confirm this mailing.

I accept the landlords' evidence that the tenants were served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present his evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence specifically referenced by

the landlord and relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The landlord was informed at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Rule 6.11. The landlord was also informed that if any recording devices were being used, he was directed to immediately cease the recording of the hearing.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation from the tenants and to recover the cost of the filing fee?

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of September 1, 2019, monthly rent of \$2,200, due on the 1st day of the month, and a security deposit of \$1,100 being paid by the tenants to the landlords.

The landlord submitted that the tenancy ended on November 29, 2020.

The landlords retained the tenants' security deposit, having made this claim against it.

The landlords' monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Cleaning/disposal	\$200.00
2. Replacing toilet	\$1,459.00
3. Filing fee	\$100.00
TOTAL	\$1,759.00

In support of their application, the landlord testified to the following:

The landlord testified that the tenants did not leave the rental unit reasonably clean prior to their departure. For instance, the kitchen had many greasy marks and the cabinets

and refrigerator were dirty. The kitchen appliances and bathroom were left dirty and the landlord had to discard the remaining personal property left behind by the tenants.

The landlord submitted that the actual cleaning costs exceeded \$200, but that he had previously agreed with the tenants that he would charge \$200.

Filed into evidence was the receipt from the cleaning company.

Additionally, the landlord submitted that the tenants left the toilet so stained and damaged, it could not be cleaned or repaired. The landlord submitted that the cleaning company verified to him that the toilet was not cleanable.

The landlord submitted that the work by the construction company exceeded the amount claimed, but that he agreed with the tenants to only charge for the toilet replacement.

Filed into evidence was a receipt from the construction company replacing the toilet, photographs of the toilet, and the move-in and move-out condition inspection report (CIR) which listed the damages and cleaning.

The tenants did not attend the hearing and no evidence or submissions were provided by them.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlords here, has the burden of proof to substantiate their claim on a balance of probabilities.

Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

As such, the tenant is required to remove all belongings including garbage and to clean the rental unit to a reasonable standard.

I find the landlords submitted sufficient and uncontested evidence to support that the rental unit was not left reasonably clean and that the damage claimed was beyond reasonable wear and tear.

I have reviewed the landlord's photographic and documentary evidence along with the receipts and invoices for the amounts claimed. Upon review of the photographs, I find the costs claimed to be reasonable, considering the state of the rental unit and the damage depicted.

I therefore find the landlord has established a monetary claim for cleaning and property removal for **\$200.00** and for the toilet removal and replacement of **\$1,459.00**, for a total amount of **\$1,659.00**.

Due to the landlords' successful application, I award them recovery of the filing fee of **\$100.00**.

For the reasons above, I find the landlord has established a total monetary claim of **\$1,759.00**.

At the landlords' request, I direct them to retain the tenants' security deposit of \$1,100.00 **in partial satisfaction of their monetary award of \$1,759.00**.

I grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of **\$659.00**.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The tenants are cautioned that costs of such enforcement are subject to recovery from the tenants.

Conclusion

The landlords' application for monetary compensation is granted.

The landlords have established a monetary claim of \$1,759.00, have been authorized to retain the tenants' security deposit of \$1,100.00 and they have been awarded a monetary order for the balance due, in the amount of \$659.00.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 22, 2021

Residential Tenancy Branch