



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

On January 29, 2021 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

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

The hearing was scheduled for 1:30pm on June 1, 2021 as a teleconference hearing. The Landlord 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 25 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 February 8, 2021 the Landlord was granted an order for Substituted Service, allowing the Landlord to serve the Application and documentary evidence to the Tenants via email. The Landlord testified the Application and documentary evidence package was served to the Tenants by email on February 17, 2021. The Landlord provided a copy of the email sent in support. In accordance with Section 71 and 90 of the Act, I find that the Tenants are deemed to have been served with the Landlord’s Application and documentary evidence on February 20, 2021, three days after the email was sent to the Tenants.

The Landlord was given the 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to a monetary order for damage, compensation, or loss, pursuant to Section 67 of the *Act*?
3. Should the Landlord be authorized to apply the security deposit against their claim, in accordance with Section 72 of the *Act*?
4. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on September 15, 2020. Rent in the amount of \$2,250.00 was due on the 15th day of each month. The Tenants paid a security deposit in the amount of \$1,125.00 which the Landlord currently holds. The Landlord stated that the tenancy ended on January 14, 2021. The Landlord stated that the Tenants have not yet provided the Landlord with their forwarding address.

The Landlord stated that the parties had discussions surrounding the end of the tenancy as the Landlord had the rental property for sale. The Landlord stated that the Tenants were seeking an unreasonable amount of compensation, therefore, the Landlord stated that he decided to continue the tenancy as intended. The Landlord stated that the parties made no agreements surrounding compensation or ending the tenancy.

The Landlord stated that the Tenants did not pay any rent to the Landlord which was due on December 15, 2020. The Landlord stated that the Tenants did not provide the Landlord any notice to end tenancy before the Tenants vacated the rental unit on January 14, 2021. As such, the Landlord is claiming \$2,250.00 for loss of rent from December 15, 2020 to January 14, 2021.

The Landlord stated that the Tenants had changed the lock to the rental unit, however, the Tenants did not provide the Landlord with a key. The Landlord stated that the Tenants locked the rental unit before vacating, leaving the Landlord without access. The Landlord stated that he was required to employ the services of Locksmith to open the door and to replace the lock. The Landlord is claiming \$149.84 to cover the cost associated with replacing the lock.

If successful, the Landlord is seeking the return of the filing fee as well as to retain the Tenants' security deposit towards the claims.

Analysis

Based on the unchallenged and 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 Tenant. 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 Landlord did what was reasonable to minimize the damage or losses that were incurred.

Section 26(1) of the *Act* confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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 Landlord is claiming \$2,250.00 for unpaid rent from December 15, 2020 to January 14, 2021. I find that the Tenants were required to pay rent to the Landlord in the amount of \$2,250.00 which is due on the 15th day of each month. I accept that the Tenants failed to pay this amount to the Landlord on December 15, 2020 before the Tenants vacated the rental unit on January 14, 2021. As there is no evidence before me to indicate that the Tenants had the right to deduct all the rent for December 15, 2020, I find that the Landlord is entitled to monetary compensation in the amount of **\$2,250.00**.

I further find that the Tenants were not permitted to change the locks to the rental unit. I accept that the Tenants did not provide the Landlord with a key to the new lock. Therefore, I find that it is reasonable to expect that the Landlord would have to call a Locksmith the gain entry and to replace the lock to the rental unit. I find that the Landlord is entitled to monetary compensation in the amount of **\$149.84**.

Having been successful, I also find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$1,374.84, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$2,250.00
Locksmith:	\$149.84
Filing fee:	\$100.00
LESS security deposit:	-(\$1,125.00)
TOTAL:	\$1,374.84

Conclusion

The Landlord is granted a monetary order in the amount of \$1,374.84. The monetary 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: June 04, 2021

Residential Tenancy Branch