



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, PSF, MNDCT, RR, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking the following relief:

- an order cancelling a notice to end the tenancy for landlord's use of property;
- an order that the landlords comply with the *Residential Tenancy Act*, regulation or tenancy agreement;
- an order that the landlords provide services or facilities required by the tenancy agreement or the law;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order reducing rent for repairs, services or facilities agreed upon but not provided; and
- to recover the filing fee from the landlords for the cost of the application.

Both tenants and both landlords attended the hearing, and each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

At the commencement of the hearing, the tenants advised that they have vacated the rental unit and therefore, all other claims, except the claims for monetary compensation and recovery of the filing fee are withdrawn.

No issues with respect to service or delivery of documents or evidence were raised and all evidence relevant to the monetary claim has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issue remaining to be decided is:

- have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The first tenant (NL) testified that this month-to-month tenancy began on September 15, 2020 and ended on March 29, 2021. There is no written tenancy agreement, however rent in the amount of \$1,300.00 was payable on the 1st day of each month and there are no rental arrears. On August 8, 2020 the landlords collected a security deposit from the tenants in the amount of \$500.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is the main floor of a house with an Air BNB suite downstairs. No move-in condition inspection report was completed at the beginning of the tenancy, but a move-out condition inspection report was completed at the end of the tenancy.

On March 3, 2021 the tenants received an email from the landlords requesting that the tenants vacate the rental unit by the end of the month, and the landlords returned to the rental home and resided in the Air BNB unit starting on March 9, 2021. Since then, there was no internet, cable or heat to the bathroom floors or bathtub.

The tenant further testified that at move-in the landlords said there was internet and cable without any cost since the landlords had to keep it running for the Air BNB unit. The tenants sent several emails to the landlords about the internet not working and never received a reply. The tenant called the landlords, but there was no answer.

The tenants have provided a worksheet setting out claims of \$650.00, being half a month's rent for loss of internet, cable and heat to the heater for the bathroom floors and tub, fuel costs of \$100.00 to drive to nearby town to use the internet to do taxes, purchases at the owners' request of \$29.20 and recovery of the \$500.00 security deposit. However, in the course of her testimony, the tenant withdrew the \$650.00 claim and testified that the tenants want to be compensated for items purchased, such as a new toilet seat for \$32.99, purchases made at the landlord's request of \$29.20, \$100.00 for gasoline costs and recovery of the \$100.00 filing fee, for a total of \$262.19. Receipts for the purchases totalling \$29.20 have been provided for this hearing.

The tenants vacated the rental unit on March 29, 2021 but have not yet provided the landlords with a forwarding address in writing.

The second tenant (KM) testified that landlords should not be able to use harassment to get a company or a person out of a place if the rent is paid. Things could have gone smoothly; the tenants only stated what the Residential Tenancy rules were, and things went off the rails.

The first landlord (KH) testified that there were several different agreements making things muddled. The tenant had agreed to clean the Air BNB suite, and if she had, the landlords would not have had to attend from Alberta.

The landlord denies that internet was turned off and testified there were no interruptions in March, but there were issues with it being slow. Further, there is an internet café not far from the rental unit so the tenants did not have to travel to another town.

The landlords were never told about the toilet seat, and no receipt has been provided.

The only claims that the landlord agrees with are the ones supported by receipts for items the tenants purchased for the Air BNB suite at the request of the landlords, for a total of \$29.20, being \$20.21 for wine and \$8.99 for soap.

The second landlord (TL) testified that all Telus bills have been provided as evidence, and internet was never turned off. The text messages from the tenants became overwhelming and the landlord stopped responding.

The landlord does not believe there was any need for the tenants to travel to use the internet, and disagrees with the fuel costs claimed.

The rental unit has not been re-rented.

Analysis

I explained to the parties that the law requires a tenant to provide the landlord with a forwarding address in writing within 1 year after the tenancy ends. If the tenant fails to do so, the landlord may keep the security deposit and/or pet damage deposit. If the tenant provides a forwarding address in writing, the landlord has 15 days from the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address to return the deposit(s) in full to the tenant or make an application with the Residential Tenancy Branch claiming against the deposit(s). If the landlord does not return the deposit(s) or make a claim against the deposit(s) within that 15 day period, the landlord must repay double the amounts. A landlord may not make a claim for

damages against the deposit(s) if the landlord fails to ensure that move-in and move-out condition inspection reports are completed in accordance with the regulations.

In this case, the tenants have not yet provided the landlords with a forwarding address in writing, and therefore, I cannot order the landlords to return the \$500.00 security deposit to the tenants.

Where a party makes a monetary claim for damage or loss, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

The landlords do not deny the claim of \$29.20 for items purchased for the Air BNB unit at the landlords' request, and therefore, I find that the tenants have established that claim.

The tenants have not provided any proof of purchase or cost of the toilet seat, and therefore have not satisfied element 3 in the test for damages.

Similarly, there are no receipts or specifics about travelling to use the internet, such as how many trips, or other details. Although I accept that the tenant didn't want to do taxes at an internet café, I find that the tenant did not mitigate considering that the tenant didn't know there were internet cafes closer. The tenants' claim of \$100.00 for gasoline costs is dismissed.

Since the tenants have been partially successful with the application the tenants are entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenants as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$129.20.

This order is final and binding and may be enforced by filing the order in the Provincial Court of British Columbia, Small Claims division for enforcement.

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 29, 2021

Residential Tenancy Branch