



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

On February 24, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid utilities, a Monetary Order for damages, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing.

Preliminary Matters

At the start of the hearing, the Landlord testified that she served the Notice of Dispute Resolution Proceedings (“Notice Package”) to the Tenant via registered mail. However, the Landlord did not submit any documentary evidence to support the service of the Notice Package. The Tenant testified that she did not receive the Notice Package from the Landlord and only learned about the hearing on July 9, 2021 via an email she received. The Tenant stated that she followed up with the Residential Tenancy Branch and received a copy of the Notice Package with the hearing information.

I provided the Tenant with an option to adjourn these proceedings in order for her to review the Landlord’s evidence and/or to submit her own evidence for the proceedings. The Tenant stated that she did not want to adjourn and was ready to proceed. The Tenant also acknowledged that she did not submit any evidence for these proceedings.

Issues to be Decided

Should the Landlord receive a Monetary Order for unpaid utilities, in accordance with section 67 of the Act?

Should the Landlord receive a Monetary Order for damages, in accordance with section 67 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

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.

Both parties agreed to the following terms of the tenancy:

The one-year, fixed-term tenancy began on October 1, 2017 and continued as a month-to-month tenancy. The rent was \$900.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$450.00 and a pet damage deposit in the amount of \$450.00. The Tenant moved out of the rental unit on September 30, 2020.

The Landlord testified that the Tenant failed to pay her hydro bills before ending the tenancy. The Landlord submitted hydro bills for June through to September 2020 and stated that she and the Tenant shared the hydro and the Tenant did not pay her half for the last four months of the tenancy. The Landlord submitted a claim for \$145.00 in unpaid hydro bills.

The Landlord acknowledged that there were no formal Condition Inspection Reports completed at move-in or move-out; however, that there was always a walk through with the Tenant to discuss the condition of the unit.

The Landlord testified that the rental unit was in excellent condition when the Tenant moved in and had been repainted, with new trim added, in 2016. The Landlord stated it was her daughter's family that had lived in the rental unit prior to the Tenant, and that it was her daughter who had met with the Tenant upon move-in and confirmed that the unit was clean and in good condition.

The Landlord submitted 36 photos, along with receipts to support her claim that the rental unit had been left in poor condition, with damaged floors and trim, with a smell of smoke and pet urine, and with walls that required cleaning and repainting. The Landlord submitted a monetary order worksheet, receipts and work estimates to demonstrate she incurred losses for the following:

- Costs of an industrial cleaner to neutralize the smell of cat urine throughout the unit. Amount: \$65.39.
- Costs of door and trim paint. Amount \$68.31

- Costs to repair door trim, prepare walls for painting and painting of ceiling, 2 bedrooms, hallway, living room, kitchen, and cupboards. Amount \$2,092.71.

The Landlord testified that she also incurred losses due to labour costs for removing the damaged linoleum, replacement of the laundry room door, damage to the yard, costs of replacing brushes and hoses that the Tenant's dog chewed, and some missing carbon monoxide/smoke alarms. The Landlord did not supply photos or receipts to support her testimony for these losses.

The Landlord stated that the photos were taken at the end of the tenancy. The Landlord acknowledged that, during the walkthrough of the unit on the last day of the tenancy, the Tenant attempted to have the Landlord "sign-off" on the condition of the rental unit and that she, the Landlord, refused to sign and walked out of the unit.

The Tenant testified that she was "pretty sure" that she paid the hydro bills for June and July. The Tenant acknowledged that the costs, as provided by the Landlord, of approximately \$35.00-\$40.00 a month for hydro were accurate.

The Tenant testified that she cleaned the rental unit and that the pictures taken by the Landlord were prior to the cleaning being completed.

The Tenant accepted that the trim around the door was damaged by her dog.

The Tenant stated that she brought a move-out inspection report for the Landlord to sign on the last day of the tenancy but that the Landlord refused and left without filling out the report.

The Tenant stated that the rental unit was clean and is requesting the return of her security deposit and pet damage deposit.

The Tenant did not submit any documentary evidence to support her testimony.

Analysis

Residential Tenancy Policy Guideline 16 outlines the test to be applied in compensation claims and states:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;

- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. In this case, the onus to prove their case is on the Landlord who is making a claim for compensation.

Based on the testimony of both parties, I find that the Tenant was responsible to pay for half the months' hydro bill as part of her tenancy. I find that the Landlord's claim was credible and that the Tenant's response that she was "pretty sure" she paid the June and July bill not only failed to tip the balance of probability in her favour, but also inferred that she did not pay the bills for August and September 2021. As such, I find that the Landlord has established a monetary claim for unpaid utility bills in the amount of \$145.00.

The Landlord failed to complete move-in and move-out inspection reports and as such, had difficulty proving the differences in the condition of the rental unit and the yard prior to and post tenancy. I do; however, find the Landlord provided undisputed evidence that the rental unit was in good condition at the beginning of the tenancy. When I consider the Landlord's and Tenant's conflicting evidence on the condition of the rental unit at the end of the tenancy, I find, based on a balance of probabilities, that the Landlord's evidence, which included pictures of the appliances pulled out and removed from their positions and the extremely dirty conditions left behind, provided an accurate depiction of the poor state the rental unit was left at the end of the tenancy.

As such, I find that the Landlord has established a monetary claim regarding the losses she incurred as a result of the Tenant failing to clean the rental unit and repair damages, pursuant to sections 32 and 37 of the Act. I award damages to the Landlord specifically, where she has provided documentary evidence to demonstrate the amount of or value of the damage or loss.

I dismiss the Landlord's claim of losses on those issues where she failed to provide documentary evidence to demonstrate the amount of or value of the damage or loss.

The Landlord has established a monetary claim, in the amount of \$2,471.41, which includes \$145.00 in unpaid utilities, \$2,226.41 in damages, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

Item	Amount
Unpaid utilities from June-September 2020.	\$145.00
Industrial cleaner	65.39
Door and trim paint	68.31
Painting of rental unit	2,092.71
Less security deposit and pet damage deposit	-900.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$1,571.41

Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenant's security deposit and pet damage deposit in the amount of \$900.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a Monetary Order for the balance of \$1,571.41, in accordance with section 67 of the Act.

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$1,571.41.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: July 14, 2021

Residential Tenancy Branch