



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Property Management and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL, MNDL, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on May 6, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage, compensation, or loss; and
- an order granting recovery of the filing fee.

The Landlord's Agent S.S. and the Tenants attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were provided with a full 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 and to which I was referred. 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 damage, compensation, or loss, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified that they entered into a tenancy agreement effective June 1, 2017. During the tenancy, the Tenants were required to pay rent in the amount of \$1,850.00 which was due on the first day of each month. The Tenants deposits were dealt with in a previous Dispute Resolution Hearing. The tenancy ended on December 31, 2019.

The Landlord submitted an amended monetary order worksheet which contained 6 monetary claims amounting to \$15,760.33. During the hearing, the Landlord's Agent withdrew items 4,5,and 6, therefore, reducing the Landlord's monetary claim to \$2,224.72.

The Landlord is claiming \$850.50 for cleaning the upstairs and \$996.22 for cleaning the lower portion of the rental unit. The Landlord's Agent stated that the Tenants left the rental unit very dirty at the end of the tenancy and left a lot of garbage behind which needed to be disposed of. The Landlord's Agent stated she was required to hire a cleaning company to attend and clean the rental unit. The Landlord provided 6 pictures, a condition inspection report which had no move out condition details, and the two invoices in support of the costs.

The Tenants stated that the rental unit was dirty at the start of the tenancy. The Tenants stated that the previous occupants left their garbage and that despite the Tenants notifying the Landlord of the poor condition of the rental unit at the start of the tenancy, no action was taken by the Landlord to clean or remove the debris. The Tenants acknowledged that some further cleaning was required in the rental unit and estimates the cost to be \$600.00 rather than the amounts being sought by the Landlord.

The Landlord is claiming \$378.00 for repairs to drywall, sanding, painting the walls, and changing the locks in the rental unit. The Landlord provided an invoice in support of the cost. The Tenants acknowledged that they had caused some damage to the walls while moving, however, disagreed that they were responsible for the majority of the damage in the rental unit. The Tenants stated that they had notified the Landlord of the damage in the rental unit during the tenancy, and that the Landlord did not take any action to fix such items. As such, the Tenants do not feel as though they should be responsible for the repair costs.

If successful, the Landlord is seeking the return of the filing fee.

Analysis

Based on the 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 Landlord 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 Landlord 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.

According to the Residential Tenancy Policy Guideline 1; The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act*.

The Landlord is claiming \$850.50 for cleaning the upstairs and \$996.22 for cleaning the lower portion of the rental unit. I accept that the Tenants agree that some further cleaning was required in the rental unit. I find that neither the condition inspection report, nor the pictures provided in the Landlord's documentary evidence demonstrate that the rental unit required such extensive cleaning to support the costs being claimed by the Landlord. I accept that the Tenants felt as though \$600.00 was a reasonable amount for cleaning, therefore, I find that the Landlord is entitled to monetary compensation in the amount of **\$600.00**.

The Landlord is claiming \$378.00 for repairs to drywall, sanding and painting the walls, and changing the locks in the rental unit. During the hearing, the Tenants acknowledged that they had caused some damage to the walls while moving, however, disagreed that they were responsible for all the damage noted by the Landlord. I find that the Tenant signed the move out condition inspection report acknowledging the above mention items need repairs. As such, I find that the Landlord is entitled to monetary compensation in the amount of **\$378.00**.

Having been partially successful, I find that the Landlord is entitled to the return of the **\$100.00** filing fee

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of **\$1,078.00**.

Conclusion

The Landlord has established an entitlement to monetary compensation in the amount of \$1,078.00. The 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: November 1, 2021

Residential Tenancy Branch