



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0996964 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNDL, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy.

Having issued a One Month Notice To End Tenancy For Cause, dated April 2, 2021, (the One Month Notice) the Landlord applied for:

- an order of possession for the rental unit;
- compensation for damage cause by the Tenant; and
- the filing fee.

The Landlord attended the hearing; the Tenant did not. The Landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified they served the Tenant with the Notice of Dispute Resolution Proceeding (NDRP) and their evidence on November 1, 2021 by registered mail. A Canada Post receipt with tracking number was submitted as evidence by the Landlord. I find the NDRP and evidence served on the Tenant in accordance with section 89 of the Act and deem it received by the Tenant on November 6, 2021, in accordance with section 90 of the Act.

Issues to be Decided

- 1) Is the Landlord entitled to an order of possession?
- 2) Is the Landlord entitled to compensation for damage?
- 3) Is the Landlord entitled to the filing fee?

Background and Evidence

The Landlord provided the following particulars on the tenancy. It began November 20, 2018; rent is \$850.00, due on the first of the month; and the Tenant paid a security deposit of \$425.00 and a pet deposit of \$425.00, which the Landlord still holds.

The Landlord submitted a copy of the tenancy agreement as evidence.

The Landlord submitted a copy of the One Month Notice as evidence. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reason for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because the Tenant has not done required repairs of damage to the unit.

The Landlord testified they served the One Month Notice on the Tenant by attaching it to the door on April 2, 2021.

The Landlord testified they did not think the Tenant had disputed the One Month Notice.

The Landlord testified that on January 27, 2021, they were told by another tenant that the Tenant had accidentally burned the living room carpet. The Landlord testified this created a damaged area of approximately 10 inches by 10 inches. The Landlord testified that the Tenant had cut a piece of carpet out of the bedroom closet, and put it in the living room as a patch.

The Landlord testified the Tenant did not deny cutting the carpet. The Landlord testified that when he discussed the cost of the damage with the Tenant, the Tenant indicated the Landlord should deduct the amount from the Tenant's security deposit when they move out. The Landlord testified they indicated that would not be acceptable, and that they told the Tenant they need to pay for the damage. The Landlord testified they provided the Tenant with a carpet and labour quote, and told the Tenant they alternatively could arrange the repair themselves. The Landlord indicated the Tenant did

not act to fix the carpet. The Landlord testified that on February 2, 2021, they provided the first notice to the Tenant that they must pay for the damage.

The Landlord testified that on February 5, 2021, they offered for the Tenant to pay \$100.00 a month to cover the cost of the damage.

The Landlord testified the Tenant did not respond, and did not replace the carpet.

The Landlord's submitted evidence includes photos of the two cut carpet areas, and a copy of an estimate for the carpet and labour, in the amount of \$737.65.

Analysis

I find the Landlord served the One Month Notice on the Tenant in accordance with section 88 of the Act. As the Landlord served the One Month Notice by posting it on the door of the rental unit on April 2, 2021, the One Month Notice is deemed received by the Tenant on April 5, 2021 under section 90 of the Act.

I find the One Month Notice meets the form and content requirements of section 52 of the Act.

Section 47(4) of the Act provides that upon receipt of a notice to end tenancy for cause, the Tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Information on how to dispute the notice is found on pages 1 and 3 of the [One Month Notice](#) form.

I find that the Tenant did not file an application for dispute resolution within 10 days of April 5, 2021, the timeline granted under section 47(4) of the Act. Accordingly, I find that the Tenant is conclusively presumed under section 47(5) to have accepted that the tenancy ended on the corrected effective date of the One Month Notice, May 30, 2021, and must vacate the rental unit.

Therefore, in accordance with section 55 of the Act, I find that the Landlord is entitled to an order of possession.

I accept the Landlord's undisputed affirmed testimony that the Tenant significantly damaged the carpet and did not replace it or pay for its replacement. I accept the Landlord's documentary evidence that it will cost \$737.65 to replace the damaged carpet.

Section 10(2)(a) of the tenancy agreement, under Repairs, states that the Tenant must take the necessary steps to repair damage to the residential property caused by the actions or neglect of the tenant. I find that as the Tenant cut holes in the carpet, repairing the damage requires replacing the carpet.

Section 67 of the Act and [Policy Guideline 16](#) provide that if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Therefore, I find the Landlord is entitled to compensation in the amount of \$737.65, the estimated cost to replace the damaged carpet.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord is successful in their application, I order the Tenant to pay the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

I find the Landlord is entitled to a total monetary award of \$837.65, comprised of \$737.65 for carpet replacement, and \$100.00 for the filing fee. In accordance with sections 38 and 72 of the Act, I allow the Landlord to retain \$425.00 of the Tenant's security deposit and \$412.65 of their pet deposit in satisfaction of this monetary award.

Conclusion

The Landlord's application is granted.

The Landlord is granted an order of possession, which must be served on the Tenant and which is effective two (2) days from the date of receipt. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

The Landlord is granted a monetary award in the amount of \$837.65. In accordance with sections 38 and 72 of the Act, I allow the Landlord to retain \$425.00 of the Tenant's security deposit and \$412.65 of their pet deposit in satisfaction.

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: December 15, 2021

Residential Tenancy Branch