



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYLINE LIVING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNRL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on July 06, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch in June of 2021 was sent to each Tenant, via registered mail, at the service address noted on the Application. The Landlord submitted a Canada Post receipt that corroborates this statement. In the absence of evidence to the contrary, I concluded that these documents had been served to the Tenants in accordance with section 89 of the *Residential Tenancy Act (Act)*, and the hearing proceeded in their absence.

The hearing was scheduled to commence at 1:30 p.m. Both Tenants dialed into the teleconference at approximately 1:49 p.m. When they joined the teleconference, the female Tenant confirmed that the forementioned documents had been received.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. When the Tenants joined the teleconference, testimony that had been given by the Agent for the Landlord was summarized for the Tenants and they were given the opportunity to respond to that testimony.

Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Preliminary Matter #1

On July 06, 2021 the Landlord submitted a Monetary Order Worksheet to the Residential Tenancy Branch, which increased the amount of the claim by \$80.00 for cleaning. The Agent for the Landlord stated that this document was served to each Tenant, via registered mail, on July 06, 2021. The male Tenant acknowledged receiving this document and they both acknowledged they understood the Landlord was seeking \$80.00 for cleaning.

Rule 4.1 of the Residential Tenancy Branch Rules of Procedure permit an applicant to amend a claim by filing a completed Amendment to an Application for Dispute Resolution. In these circumstances, the Landlord did not file an Amendment to an Application for Dispute Resolution

Rule 4.2 of the Residential Tenancy Branch Rules of Procedure permit me to amend an Application for Dispute Resolution at the hearing in circumstances that can reasonably be anticipated. As the Tenants received the Monetary Order Worksheet indicating the Landlord was claiming compensation for cleaning and the Tenants were aware the Landlord was making this claim, I find it reasonable to amend the Application for Dispute Resolution to include a claim for cleaning.

Preliminary Matter #2

At the hearing the Agent for the Landlord stated that the Landlord would like to remove the claim for unpaid rent from July of 2021, as the Landlord was able to re-rent the unit for that month.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent and cleaning?
Is the Landlord entitled to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenants agree that:

- the tenancy began on August 01, 2020;
- the Tenants agreed to pay \$1,525.00 for rent and parking by the first day of each month;
- the Tenants paid a security deposit of \$750.00;
- on June 02, 2021 the Tenants signed a written notice to end the tenancy on July 31, 2021;
- the rental unit was vacated on June 02, 2021; and
- the Tenants did not pay rent/parking for June of 2021.

The female Tenant stated that they did not provide proper notice to end the tenancy as they urgently needed to relocate due to a death in the family.

The Landlord is claiming \$1,525.00 in unpaid rent/parking for June of 2021 and \$80.00 for cleaning.

In support of the claim for cleaning the Agent for the Landlord stated that:

- the carpet required general cleaning, although there were no major spills;
- other "minor" cleaning was required in the unit which was necessary to prepare the unit for the next tenant;
- employees of the Landlord spent approximately three hours cleaning the unit;
- the Landlord charges \$40.00 per hour for cleaning;
- the Landlord is only seeking compensation for 2 hours of cleaning in these circumstances; and
- he has no record of the carpets being cleaned on June 04, 2021.

In response to the claim for cleaning the female Tenant stated that:

- when the unit was inspected on June 02, 2021, she was told the carpets needed cleaning;
- she arranged to have cleaners clean the carpet on June 04, 2021;
- she arranged to have the building manager grant access to the carpet cleaners; and
- she paid the carpet cleaners directly.

The Landlord submitted a copy of the condition inspection report that was submitted in evidence.

Analysis

On the basis of the undisputed evidence, I find that the Tenants agreed to pay \$1,525.00 for rent and parking by the first day of each month; that they vacated the rental unit on June 02, 2021; and that they did not pay rent/parking when it was due on June 01, 2021.

As the Tenants were occupying the rental unit on June 01, 2021, they were obligated to pay rent when it was due on June 01, 2021, pursuant to section 26 of the *Residential Tenancy Act (Act)*. I therefore find that they still owe \$1,525.00 to the Landlord for June of 2021.

While I sympathize with the Tenants for the death in their family, it does not negate their obligation to give proper notice to end the tenancy and/or to pay rent when it is due.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss. In these circumstances, the burden of proving cleaning was required rests with the Landlord.

Section 21 of the *Residential Tenancy Regulation* stipulates that a condition inspection report completed that is signed by both parties is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary. In these circumstances the condition inspection report that was signed by both parties on June 02, 2021 summarizes the condition of the rental unit as "Good shape. Minor clean needed. 2 hr min". There is nothing in the detailed section of the report that indicates carpet cleaning is needed.

On the basis of the information provided in the condition inspection report, I find that the rental unit was in reasonably clean condition at the end of the tenancy. I find that this report is more compelling than the Agent for the Landlord's testimony that the carpet needed cleaning.

Section 37(2)(a) of the *Act* requires a tenant to leave a rental unit in reasonably clean condition at the end of the tenancy. As the condition inspection report indicates the rental unit was in reasonably clean condition at the end of the tenancy, I find that the Landlord has failed to establish that the Tenants did not comply with section 37(2)(a) of the *Act*.

As the Landlord has not establish that the Tenants did not leave the unit in reasonably clean condition, I dismiss the Landlord's claim for cleaning.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,625.00, which includes \$1,525.00 for rent/parking and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$750.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$875.00. In the event the Tenants do not voluntarily comply with this Order, it may be served on the Tenants 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 *Act*.

Dated: January 05, 2022

Residential Tenancy Branch