



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL, OPU-DR, MNU-DR, FFL

Introduction

This hearing dealt with the landlord's two application(s) pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent and/or utilities pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee(s) for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided testimony. The tenants did not attend or submit any documentary evidence.

At the outset, the landlord requested that the two applications be adjourned. The landlord stated that she is currently out of the country assisting her mother deal with the recent passing of her father. The landlord stated that she was not fit to present her claims.

The hearing was paused until 10 minutes past the start of the scheduled hearing time to allow both parties an opportunity to attend, make submissions and present evidence.

The landlord stated that the tenants were served with the notice of hearing package(s) via Canada Post Registered Mail on April 3, 2021 and April 9, 2021. The landlord stated that both tenants still occupy the rental unit and no rent has been paid.

At 15 minutes past the start of the scheduled hearing the landlord's request to adjourn the hearing was granted. I find that there is no prejudice to the tenants in granting this adjournment for the landlord. Both parties are advised that a notice of adjournment shall be attached to this interim decision with the new date, new time and access codes.

On January 6, 2022 the hearing was resumed with the named landlord present only. The named tenants did not attend.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, damage, compensation or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided undisputed affirmed testimony that the tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 6, 2021 on March 6, 2021 in person. The 10 Day Notice sets out an effective end of tenancy date of March 16, 2021 and states that the tenants failed to pay rent of \$2,566.00 that was due on March 1, 2021 and that a written demand for unpaid utilities of \$201.00 was served on January 14, 2021.

The landlord stated that the tenants vacated the rental unit on March 20, 2021 and as such no longer requires an order of possession. As such, this portion of the landlord's application was dismissed.

The landlord seeks a monetary claim of \$4,753.33 which consists of:

\$335.00	Unpaid Rent,
\$83.00	April 2020
\$83.00	May 2020
\$83.00	June 2020
\$86.00	July 2020
\$904.40	Unpaid Utilities,
	Hydro due March 20, 2021

\$29.00	Hydro due March 11-22,2021 pro-rated 11 days
\$113.00	Water due March 2, 2021
\$32.00	Water due Feb 20-Mar22
\$85.00	Sewer Jan1-Mar22, pro-rated @ 70%
\$198.40	Carpet Cleaning, Dirty carpet
\$309.32	Cleaning Supplies/New Blinds
\$72.76	Paint Supplies
\$52.50	Cut Grass/lawncare
\$49.35	Replace Shower Handle
\$735.00	Cleaning labour, 21 hours @\$35/hr
\$595.00	Painting/Repair labour, 17 hours @ \$25/hr
\$600.00	Estimated Repair deck flooring
\$600.00	Estimated Repair carpet replacement

The landlord provided undisputed affirmed testimony that the tenants vacated the rental unit without paying rental arrears as per the submitted copy of a repayment plan notice dated August 24, 2020 for the items listed on the repayment scheduled on lines 7-10. The landlord also stated that the tenants also failed to pay for the associated utilities during their tenancy as per the submitted copies of the signed tenancy agreement which details their responsibilities to utilities and the provided copies of invoices. The landlord also stated that the tenants left the rental unit without cleaning the carpets, with a broken blind with required replacement, damage to the walls which required repair and painting. The landlord provided undisputed evidence that 21 hours of cleaning and 17 hours for painting/repair work were performed by the landlord. The landlord has submitted numerous photographs of the rental condition at the end of tenancy and a copy of the condition inspection report completed at the start of the tenancy. The landlord stated that the move-out condition inspection report was completed without the tenant after a Notice of Final Opportunity was served to the tenants for March 22, 2021. The landlord submitted in support of these claims invoice(s), receipt(s), estimate(s).

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

In this case, I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the landlord has established a claim for the total filed of \$4,753.31. The landlord provided numerous photographs of the condition of the rental unit at the end of tenancy in comparison with the completed copy of the signed condition inspection report. I find that this evidence in conjunction with the submitted invoice(s)/receipt(s) and the landlord's undisputed evidence is sufficient to satisfy me of this claim.

The landlord is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to offset this claim against the \$1,200.00 security deposit in partial satisfaction of this claim.

Conclusion

The landlord is granted a monetary order for \$3,653.21.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: January 19, 2022

Residential Tenancy Branch