



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNDL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;

WZ attended as agent for the landlord ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions.

The hearing process was explained.

The landlord stated he was not recording the hearing.

The landlord provided the email address to which the Decision shall be sent. As the landlord and tenant currently have a tenancy agreement, the landlord confirmed the tenant's address to which a copy of the Decision shall be sent.

Preliminary Issue – Service

The landlord testified the landlord's building manager SS personally served the Notice of Hearing and Application for Dispute Resolution on the tenant on September 21, 2021. The tenant moved to another unit operated by the landlord on August 31, 2019, and was served at her new residence. Considering the uncontradicted evidence of the

landlord, further to section 89, I find the landlord served the tenant on that day in compliance with the Act.

Issues

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act, Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*

Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing. The landlord submitted complete documents in support of the claims which were well organized, credible and thorough.

The tenancy began on July 1, 2018, for monthly rental of \$510.00 payable on the first of the month. At the beginning of the tenancy, the tenant did not provide a security deposit. The landlord submitted a copy of the tenancy agreement. A condition inspection was conducted on moving in and a copy was submitted in evidence. The report indicated that the unit was in good condition in all relevant aspects.

The tenant moved out of the unit on August 31, 2019, to another apartment operated by the landlord. A time/date for the condition inspection on moving out was scheduled between the parties. The tenant did not attend the inspection.

The landlord completed the inspection report on moving out, signed the report, and submitted it as evidence. The landlord testified to damage to the flooring and painting caused by the tenant, damages which are reflected on the report on moving out.

The landlord provided dated receipts for repairs to the flooring and painting and prorated the expenses to consider the remaining useful life of each. The landlord submitted letters from suppliers regarding each expense and the pro-rated calculation. The landlord calculated that the combined pro-rated cost of the repairs for the flooring and paint was \$3,321.76 and requested a Monetary Order in this amount.

The tenant agreed to reimburse the landlord for this amount on April 7, 2021, in a signed agreement, a copy of the agreement being submitted. No repayment has been received.

The landlord submitted photograph in evidence in support of the claim for damages.

The landlord requested a Monetary Order of \$3,321.76.

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the Act, regulations, or a tenancy agreement.

Section 7(1) of the Act provided that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award. The landlord provided credible testimony supported in all material aspects by well-organized and comprehensive documents including receipts and photographs.

I have considered all the evidence submitted by the landlord, including the receipts, the photographs, and the condition inspection report on moving in (signed by tenant) and moving out (not signed by tenant).

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit was damaged when the tenant vacated, the tenant is responsible for the damage, the landlord incurred the amount claimed in repair expenses, the claimed expenses are properly pro-rated to include the remaining useful life of the floor and paint, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

In summary, I grant the landlord a Monetary Order of **\$3,321.76**.

Conclusion

The landlord is entitled to a Monetary Order in the amount of \$3,321.76

This Order must be served on the tenant. If the tenant fails to comply with this Order the landlord may file the order in the Provincial Court (Small Claims) to be 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: March 11, 2022

Residential Tenancy Branch