



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNRL-S, MNDCL-S, FFL

Introduction

The landlord seeks compensation from their former tenant, pursuant to section 67 of the *Residential Tenancy Act* (“Act”). In addition, they applied to recover the cost of the filing fee, pursuant to section 72 of the Act.

Preliminary Issue: Service

The landlord attended the hearing, but the tenant did not. When a respondent does not attend a hearing, I must be satisfied that the respondent was served with the Notice of Dispute Resolution Proceeding (“Notice”). Such service must comply with the Act and the Residential Tenancy Branch’s *Rules of Procedure*.

The landlord testified under oath that she served the Notice by registered mail on September 16, 2021, which is permitted under section 89 of the Act. It is noted that the tenant submitted various evidence to the Residential Tenancy Branch on January 20 and March 3, 2022, which, together with the landlord’s evidence regarding service, leads me to find that the tenant was served with the Notice necessary for her to participate fully in these proceedings.

Issue

Is the landlord entitled to compensation?

Background and Evidence

Relevant oral and documentary evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only the evidence needed to explain the decision is reproduced below. The landlord took an affirmation at the start of the hearing that the written submission in her application, including the documentary evidence in support of her application for compensation, were truthful and honest.

The landlord confirmed, under oath, that she seeks compensation for unpaid rent, compensation related to cleaning and other matters, and for recovery of the filing fee.

The tenancy began on February 22, 2019 and ended on April 2, 2020. Monthly rent was \$1,100. The tenant paid a \$550.00 security deposit and a \$250.00 pet damage deposit. A copy of the written tenancy agreement was in evidence.

It is noted that the landlord was ordered, in a previous Residential Tenancy Branch decision to return the tenant's security and pet damage deposits, including a doubled amount (previous file number referenced on the cover page of this decision).

The landlord's written submission stated the following:

Jan 29,2020: Request for repair : Received a facebook message from tenant saying her kitchen tap is leaking when turned on. Landlord agreed to have a plumber come look at the tap. Landlord did leave a phone message with the plumber but never heard back, and unfortunately the order was left incomplete. The tenant had not contacted the landlord again about this issue. Nor had contacted the listed emergency contact written on her agreement. There was never any mention of a cracked ceiling or danger to her children until after receiving a letter from the landlord that she was denied early termination. There was no danger shown by tenant to the agent during emergency inspection, nor was there any danger to be seen at move out inspection. This was also confirmed verbally by the tenant during emergency inspection (march 22, 2020).

The landlord affirmed, as outlined in her submission, that the tenant gave her a notice to end tenancy on March 7, 2020 and abandoned the rental unit on April 2, 2020. The landlord seeks unpaid rent for the month of April in the amount of \$1,100.00.

The tenant's written notice is in evidence, and it is dated March 7, 2020. There is also an email dated March 7, 2020 from the tenant to the landlord in which the tenant states, *inter alia*, that

This is my one month notice that I will be moving and will no longer be a resident of [address redacted] as of April 1st I understand our tendency agreement is that I pay rent on the 22nd of each month however I will not be here as of April 1st and cannot afford April's rent if I'm going to pay the other rent at the other place if you would like to keep half the damage deposit then do so but please let me have my pet deposit and half the damage deposit back

The tenant's handwritten notice includes a statement that "Ending tenancy early is as follow [sic] Kitchen sink faucet is not fixed the ceiling in kitchen & living room both cracking is in danger of caving in".

The second part of the landlord's claim is for \$218.00 in compensation for what I shall call "miscellaneous costs". "The tenant left the unit very filthy," reads the landlord's application. A completed Condition Inspection Report was in evidence, along with fourteen colour photographs of the interior and exterior of the rental unit, and two photographs of a rabbit in a cage.

In evidence is an invoice related to cleaning for \$125.00. Also in evidence is an invoice from the landlord's agent for \$93.00; this itemizes an emergency leak inspection (\$12.50), re-keyed locks (\$43.00), a service call (for lock removal and rekeying) in the amount of \$12.50, and an additional service call (for "apt. abandonment/cleaner set up") in the amount of \$25.00.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

1. Claim for Rent

The tenant was required to give a minimum one month's notice to end the tenancy as required by [section 45\(1\)](#) of the Act. She did not, and in so doing breached section 45(1) of the Act, and further breached section 26 of the Act which requires that a tenant "must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent." Further, but for the tenant's breach of sections 26 and 45(1) of the Act, it is my finding that the landlord would not have suffered a loss of rent in the amount of \$1,100.00.

In summary, taking into consideration all of the undisputed evidence presented before me, and applying the law to the facts, I must conclude on a balance of probabilities that the landlord has met the onus of proving their claim for compensation in the amount of \$1,100.00 for unpaid rent.

2. Claim for Miscellaneous Costs

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 37(2)(a) of the Act requires a tenant to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, when they vacate.

In this case, the tenant did not leave the rental unit reasonably clean, as evidenced by the photographs and the corroborating condition inspection report. Nor did the tenant return the keys to the landlord as is required under section 37(2)(b). Based on these facts, it is therefore my finding that the tenant breached the Act, and that the landlord suffered a monetary loss as a result of that breach.

The landlord has established, on a balance of probabilities, through her undisputed oral and documentary evidence that the amount of this loss was \$218.00. This amount is thus awarded to the landlord.

3. Claim for Residential Tenancy Branch Application Filing Fee

Section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the landlord succeeded in her application, she is entitled to an award of \$100.00 to pay for the application filing fee.

Summary of Award and Monetary Order

In total, the landlord is awarded, and the tenant is required to pay to the landlord, a total of \$1,418.00 pursuant to section 67 of the Act.

A monetary order in the amount of \$1,418.00 is issued in conjunction with this decision, to the landlord. The landlord must serve a copy of the monetary order on the tenant.

If the tenant fails to pay the landlord within 15 days of receiving a copy of either this decision or a copy of the monetary order, then the landlord may file and enforce the order in the Provincial Court of British Columbia (Small Claims Court).

Conclusion

The application is hereby granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: March 17, 2022

Residential Tenancy Branch