



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL, FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent; an order permitting the landlord to keep all or part of the security deposit for the unpaid rent; a monetary order for damage to the rental unit or property; and to recover the filing fee from the tenants for the cost of the application.

The landlord and one of the named tenants attended the hearing, and the tenant also represented the other tenant. The parties each gave affirmed testimony and were given the opportunity to question each other.

The tenants have not provided any evidence, and agrees that the tenants have received the landlord's evidence, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Should the landlord be permitted to keep the security deposit in satisfaction of the unpaid rent?
- Has the landlord established a monetary claim as against the tenants for damage to the rental unit or property, and specifically for damage to a television stand and a halogen lamp?

Background and Evidence

LANDLORD'S EVIDENCE

The landlord testified that this fixed-term tenancy began on June 15, 2021 and was to expire on September 15, 2021, at which time the tenants were required to vacate the rental unit. Rent in the amount of \$1,650.00 was payable on the 1st day of each month and the landlord collected a pro-rated amount of rent for the first partial month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$825.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a strata apartment; the landlord did not live on the property during the tenancy. A copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that no move-in condition inspection report was completed at the beginning of the tenancy because one of the tenants moved in by herself but was in quarantine. A sister of one of the tenants viewed the condition of the rental unit. No move-out condition inspection report was completed at the end of the tenancy.

The tenants notified the landlord by text message on or about mid-August that the tenants would be vacating on September 1, 2021. The landlord didn't argue, but testified that as per strata rules, only the landlord can book the elevator, so the landlord did so. The landlord received the tenants' forwarding address in an email on September 6, 2021.

At the beginning of the tenancy a television stand and a halogen lamp were provided in the rental unit. At the end of the tenancy both were broken and photographs have been provided as evidence for this hearing. The television stand, which the landlord had purchased in February, 2020 was missing a leg, which the landlord later found while cleaning, but could not be repaired. A copy of an advertisement for its replacement in the amount of \$65.95 has been provided for this hearing, which the landlord testified that he has purchased. An advertisement for replacing the lamp with a similar one has also been provided showing a cost of \$163.00; it has not yet been purchased.

Other damages existed at the end of the tenancy, but the tenants repaired them.

The landlord claims \$825.00 for unpaid rent from September 1 to September 15, 2021; an order permitting the landlord to keep the \$825.00 security deposit; \$65.95 for replacement of the television stand; \$163.99 for the broken halogen lamp; and recovery of the \$100.00 filing fee for the cost of this application.

TENANTS' EVIDENCE:

The tenant testified that the parties made agreements during the tenancy, and the tenant trusted the landlord, and didn't think it was necessary to get everything in writing.

The landlord agreed that the tenants could vacate on September 1, 2021.

The landlord cannot prove damages because there is no checklist at move-in or move-out, and the sister who viewed the rental unit didn't know to ask for it. The television stand was broken when the tenants moved in.

The tenant agrees that the tenants' forwarding address was provided to the landlord by email on September 6, 2021.

The tenants have not made an Application for Dispute Resolution claiming the security deposit.

Analysis

Firstly, a landlord may not make a claim against a security deposit for damages if the landlord fails to ensure that the move-in and move-out condition inspection reports are completed in accordance with the regulations. However, the landlord may make a claim for damages, and may make a claim against a security deposit for unpaid rent, which the landlord clearly has in this case.

The *Residential Tenancy Act* is clear; a tenant may give 1 month's notice to end a tenancy in writing, but must do so before the day rent is payable, and must not be effective any earlier than the end of the fixed-term specified in the tenancy agreement.

In this case, the tenants did not give notice to end the tenancy effective at the end of the fixed term. The fixed-term expired on September 15, 2021, and the tenants vacated without paying rent on September 1, 2021. Therefore, I find that the landlord is entitled to recovery of half a month's rent, or \$825.00.

The parties agree that the landlord received the tenants' forwarding address in writing in an email on September 6, 2021. The landlord made this application claiming against the security deposit on September 7, 2021, which is within the 15 days required by law. Therefore, I order the landlord to keep the \$825.00 security deposit in full satisfaction of the landlord's claim for unpaid rent.

With respect to the damages claimed by the landlord, although no move-in or move-out condition inspection reports were completed, the tenant did not deny damages to the halogen lamp, and therefore I am satisfied that the landlord suffered a loss of \$163.99.

The tenant has disputed the damage to the television stand, testifying that it was broken when the tenant moved in. Since there is no proof either way, I am not satisfied that the landlord has established that the broken television stand was caused by the tenant, and I dismiss the \$65.95 claim.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

I order the landlord to keep the \$825.00 security deposit in full satisfaction of the claim for unpaid rent, and I grant a monetary order in favour of the landlord as against the tenants in the amount of \$263.99. The landlord must serve the order on the tenants, and may file it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$825.00 security deposit, and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$263.99.

This order is final and binding and may be enforced.

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 18, 2022

Residential Tenancy Branch