



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPN, MNDL-S, FFL**

Introduction

This hearing dealt with the Landlords' application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An Order of Possession further to a notice to end tenancy given by the Tenant pursuant to Sections 55(2)(a) and 62 of the Act;
2. A Monetary Order for the tenant to pay to repair the damage that they caused during their tenancy - holding the security deposit to recover money pursuant to Sections 67 and 72 of the Act; and,
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlords, GDM and JCM, the Tenant, SJ, and Legal Counsel for Tenant, RJ, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

Tenant RJ served a notice to end tenancy to the Landlords on October 28, 2021 by email (the "Tenants' Notice"). The Landlords confirmed that email is a permissible mode of serving important documents to them. I find that the Tenants' Notice was deemed served on the Landlords on October 31, 2021 pursuant to Sections 43(1) and 44 of the *Residential Tenancy Regulation* (the "Regulation").

The Landlords served the Notice of Dispute Resolution Proceeding package and evidence to the Tenants via Canada Post registered mail on November 19, 2021 (the “NoDRP package”). The Landlords referred me to the Canada Post registered mail tracking number as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. The Tenants confirmed receipt of the NoDRP package. I find that the Tenants were deemed served with the NoDRP package on November 24, 2021, in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issues to be Decided

1. Are the Landlords entitled to an Order of Possession?
2. Are the Landlords entitled to a Monetary Order for the tenant to pay to repair the damage that they caused during their tenancy?
3. Are the Landlords entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on June 1, 2020. The tenancy agreement submitted into documentary evidence lists both RJ and SJ as co-tenants. The fixed term ended on September 30, 2021, then continued on a month-to-month basis. Monthly rent is \$1,800.00 payable on the first day of each month. A security deposit of \$900.00 was collected at the start of the tenancy and is still held by the Landlord.

On October 24, 2021, the Landlords received a telephone call from the RCMP requesting keys to do a Wellness Call by Tenant SJ’s family. When the Landlords arrived at the rental unit, the RCMP had already made a forced entry to do the search resulting in the door, door frame, moulding, drywall and locks being damaged. On October 25, 2021, the Landlords said a construction company assessed the damage done by the RCMP and they did a temporary repair of the damage.

Tenant RJ submitted a Termination of Tenancy by Tenant to the Landlords on October 28, 2021. The notice states that he will vacate the rental unit on November 30, 2021 at

1:00 p.m. On November 2, 2021, the Landlords testified that they delivered copies of the Termination of Tenancy notice to Tenant SJ.

The Landlords stated that Tenant SJ called them and told them she would not be moving out and she would not be paying the repair bill for the door.

The Landlords did not receive December 2021 or January 2022 rental payments from either Tenants.

Tenant SJ testified that she was going through a hard time on October 24, 2021 as her relationship with Tenant RJ had ended. She attempted suicide, and Tenant RJ called the RCMP. Tenant SJ stated she was told by the Landlords and the RCMP that the damage to the door would not be her fault and she did not have to pay.

Tenant SJ said November 2021's rent was paid, but December 2021's rent was not paid as the Landlords told her they would not be giving back her damage deposit. Tenant SJ moved out of the rental unit in the beginning of January 2022.

Legal counsel for Tenant RJ stated that their client is willing to cover the damages to repair the door, but he wants an invoice from the Landlords for the final door repair. The Landlords provided one invoice #1235 for the door damage inspection and the temporary fix which totalled \$245.70.

A week before the hearing, the final repairs were done to repair the door. The Landlords testified that the final cost for the door repair was \$2,844.45. Legal counsel for Tenant RJ requested a copy of the final door repair invoice. The Landlords stated they would forward this document to the Tenants.

The Landlords want two months rent, reimbursement for the temporary fix of the door which was \$245.70, and the final repair of the door which was \$2,844.45. The Landlords no longer need the Order of Possession as Tenant SJ has moved out.

Legal counsel for Tenant RJ is seeking that the tenancy ended for Tenant RJ on November 30, 2021, and that he is not responsible for December 2021 and January 2022's rent.

Tenant SJ says she only owes for December 2021's rent.

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.

RTB Policy Guideline #13 clarifies the rights and responsibilities of co-tenants. Tenant RJ and Tenant SJ entered into a tenancy agreement with the Landlords on May 31, 2020. I find that RJ and SJ are co-tenants in this tenancy agreement who, in accordance with Policy Guideline #13, have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. "Jointly and severally" means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

RTB Policy Guideline #16 sets out the criteria for awarding compensation for damage or loss during a tenancy. Policy Guideline #16 specifies:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- *a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;*
- *loss or damage has resulted from this non-compliance;*
- *the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and,*
- *the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.*

During the tenancy period, damage was caused to the front door by an RCMP Wellness check on Tenant SJ. The total monetary cost to repair the door was \$3,090.15. Section 32(3) of the Act states that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant. I find that the Tenants are liable to pay the repair costs for the damage to the front door of the residential property. The Landlord has provided an invoice for the temporary repair, and gave verbal evidence of the final repair costs to the door. Legal counsel for Tenant RJ stated they want a copy of the invoice for the final repairs done to the door, and I Order the Landlords to provide

this invoice to the Tenants if they have not already done so. Legal counsel for Tenant RJ states that their client agrees to cover the cost for this damage.

I have only considered the Landlords' application for the Tenants to pay for the repairs of the damage that they caused during their tenancy. The Landlords also gave submissions on outstanding rent owing; however, they have not applied for compensation for outstanding rent. The Landlords are free to apply for future relief in this regard.

Section 7 of the Act sets out the liability of the Landlords or Tenants for not complying with the Act, Regulation or tenancy agreement. I find the Tenants must compensate the Landlords for the repair costs to damage caused by the Tenants' actions. In addition, having been successful, I find the Landlord is entitled to recover the application filing fee paid to start this application, which I order may be deducted from the security deposit held pursuant to Section 72(2)(b) of the Act. According to Section 67 of the Act, I grant the Landlords a Monetary Award calculated as follows:

Monetary Award

REPAIR DAMAGE CLAIMS	Amount
October 26, 2021 Temporary Repair	\$245.70
Final Cost for Door Repair	\$2,844.45
TOTAL REPAIR COST:	\$3,090.15
Less Security Deposit:	-\$900.00
Plus Application Filing Fee:	\$100.00
TOTAL MONETARY AWARD:	\$2,290.15

Conclusion

I grant a Monetary Order to the Landlords in the amount of \$2,290.15. The Tenants must be served with this Order as soon as possible. Should the Tenants fail to comply

with this Order, this 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 Act.

Dated: March 11, 2022

Residential Tenancy Branch