



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on November 7, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss;
- a monetary order for unpaid rent;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on June 7, 2022 as a teleconference hearing. Only the Landlord and their Translator P.S. appeared and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 20 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord, their Translator, and I were the only persons who had called into this teleconference.

The Landlord stated that she served the Tenants with the Notice of Hearing and documentary evidence via Canada Post Registered Mail on November 18, 2021. The Landlord provided a copy of the Registered Mail receipts in support. The Landlord stated that the Tenants did not provide the Landlord with their forwarding address, however, the Landlord said she followed the Tenants' moving truck at the end of the tenancy and found where the Tenants were residing. As such, the Landlord used that address to serve the Tenants.

In accordance with Section 89 and 90 of the *Act*, I find that the above mentioned documents are deemed to have been received by the Tenants five days later, on

November 23, 2022. The Tenants did not submit any documentary evidence in response to the Landlord's Application.

The Landlord was provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage or loss, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
3. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
4. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on June 15, 2021. During the tenancy, the Tenants were required to pay rent in the amount of \$2,200.00 to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$1,100.00 which the Landlord continues to hold. The Landlord stated that the tenancy ended on October 30, 2021. The Landlord provided a copy of the tenancy agreement in support.

The Landlord is claiming for loss of rent in the amount of \$3,300.00. The Landlord stated that the Tenants only paid a half month of rent in July 2021 in the amount of \$1,100.00. The Landlord stated that the Tenants provided the Landlord with their notice to end tenancy on October 17, 2021 and moved out of the rental unit on October 30, 2021. The Landlord provided a copy of the Tenants' notice to end tenancy in support.

The Landlord stated that she was unable to re-rent the rental unit for November 1, 2021, therefore, suffered a loss of rent in the amount of \$2,200.00. The Landlord provided a copy of the e-transfer receipt in support of payments made by the Tenants.

The Landlord stated that the Tenants had damaged the rental unit and that it required further cleaning.

The Landlord is claiming \$150.00 to fill and paint a wall in the rental unit as a result of the Tenants putting holes in the wall. The Landlord stated that she has not yet completed the work and has not provided any evidence in support of the cost.

The Landlord is claiming \$200.00 to replace curtains that had been torn during the tenancy. The Landlord stated that she purchased new curtains, however, did not provide a receipt in support of the replacement cost.

The Landlord is claiming \$50.00 for the replacement of a bathroom faucet. The Landlord stated that the Tenants cleaned the faucet which scratched the chrome from the handle. The Landlord stated that the faucet was new at the start of the tenancy and requires replacement. The Landlord has not yet replaced the faucet and stated that they did not provide any evidence in support of the replacement cost.

Lastly, the Landlord is claiming \$100.00 for cleaning costs. The Landlord provided pictures of several areas in the rental unit which required further cleaning. The Landlord stated that she cleaned the rental unit herself for four hours and is charging \$25.00 per hour.

No one appeared for the Tenant to dispute the Landlords' claims.

Analysis

Based on the uncontested affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;

2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

Section 26 of the *Act* states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the *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.

The Landlord is claiming \$1,100.00 as the Tenants only paid a half a month of rent for July 2021. I am satisfied that the Tenants were required to pay rent in the amount of \$2,200.00 to the Landlord on the first day of each month, however, only paid half in July 2021. As such, I find that the Landlord is entitled to compensation in the amount of **\$1,100.00** for the remaining portion of July 2021 rent.

According to Section 45 (1) of the *Act*; a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that;

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, the Landlord stated that the Tenants provided the Landlord with their notice to end tenancy on October 17, 2021 before the tenancy ended on October 30, 2021. I find that the Tenants ended the tenancy early, without providing the Landlord with proper notice pursuant to Section 45(1) of the *Act*. As a result, the Landlord suffered a loss of rent for November 2021, therefore, I find that the Landlord is entitled to compensation in the amount of **\$2,200.00** for November 2021 rent.

Section 37(2) When a tenant vacates a rental unit, the tenant must;

- (a) **leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear**, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

The Landlord is claiming \$150.00 for wall repair, \$200.00 for curtain replacement, and \$50.00 for a new faucet. I find that the Landlord has provided insufficient evidence to support the value of the items that the Landlord is claiming for, such as receipts or quotes for items being claimed for. As such, I dismiss these claims without leave to reapply.

The Landlord is claiming \$100.00 for cleaning costs. I am satisfied based on the evidence provided by the Landlord, that the rental unit required further cleaning. I accept that the Landlord cleaned the rental unit herself and I find that a cost of \$25.00 per hour is reasonable. As such, I award the Landlord **\$100.00** for cleaning.

Having been partially successful, I find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlord retain the security deposit in the amount of \$1,100.00 in partial satisfaction of the claim.

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$2,400.00, which has been calculated below;

Claim	Amount
Unpaid rent:	\$3,300.00
Cleaning	\$100.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	<i>-(\$1,100.00)</i>
TOTAL:	\$2,400.00

Conclusion

The Landlord has established an entitlement to monetary compensation and has been provided with a monetary order in the amount of **\$2,400.00**. The order should be served to the Tenants as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 08, 2022

Residential Tenancy Branch