



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GEORGIAN HOUSE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND-S, FF

Introduction

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied on December 2, 2021, for compensation for alleged damage to the rental unit by the tenant, authority to keep the tenant's security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The landlord's agent and the tenant attended, the hearing process was explained to the parties, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The landlord's agent, AW, works for a property management company, representing the owner. It was not clear when the property management company began representation, as the evidence submitted showed another party, CM, dealt with this tenancy on behalf of the landlord.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

Following is a summary of those submissions and includes only that which is relevant to the matters before me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenant and recovery of the cost of the filing fee?

Background and Evidence

The tenancy began on August 1, 2020, and ended on October 31, 2021. The monthly rent was \$1,680, and the tenant paid a security deposit of \$840, which has been retained by the landlord, having filed this claim against it.

The landlord's monetary claim is \$1,750. In the details of their application, the landlord's submission is reproduced as follows:

Repainting to standard colour. Move out front door. Replace broken hooks on window screens. Locker storage fee. Repair scuffs on floor. Waiting on receipts for exact dollar amount.

The landlord's documentary evidence was a move-in and move-out condition inspection report (Report), signed by CM, a handwritten letter signed by the tenant and CM, where the tenant agreed to remove the contents of the storage locker, a cleaning checklist signed by CM, the tenant's written letter providing the landlord their written forwarding address, dated November 18, 2021, and a written tenancy agreement.

The agent said the landlord had retained their services as a property management company and confirmed that she did not know that much about this tenancy.

The agent confirmed that there was no breakdown of their monetary claim as to how they arrived at the amount of the monetary claim or proof of a loss. The agent confirmed she discussed this issue with the landlord, and they made the decision to settle this matter for \$150, which was the cost of window covering cleaning.

The tenant testified that he did not agree to the landlord's proposed settlement, for the reason that he used to perform work around the residential property for the landlord. During this time, according to the tenant, he observed the landlord charge many departing tenants for a professional drape cleaning of \$150, when all they would do is wash the drapes and re-hang them to dry, as the tenant did when leaving.

The tenant stated that he provided his written forwarding address to the landlord, CM, in an email on November 9, 2021, as that was the method of communication he had with

the landlord, CM, during the tenancy. The tenant submitted that he received an acknowledgment from CM on November 9, 2021, in an emailed response to his email.

The tenant asserted he was forced to send the landlord a written forwarding address by registered mail on November 18, 2021.

The tenant submitted he is entitled to double his security deposit as the landlord failed to return it or file their application in time.

Analysis

Section 59(2)(b) of the Act states an application for dispute resolution must include full particulars of the dispute. Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 2.5 states that the applicant must submit a detailed calculation of any monetary claim being made and copies of all other documentary and digital evidence to be relied on in the proceeding. The applicants are provided with instructions in the application package as to these evidence requirements.

The objective of the Rules is to ensure a fair, efficient, and consistent process for resolving disputes for landlords and tenants.

Section 59(5)(c) of the Act states that the director may refuse the application if it does not comply with subsection (2).

As the landlord failed to provide particulars of their claim or any type of breakdown, I decline to proceed on their application.

Both parties have the right to a fair hearing and the respondent is entitled to know the full particulars of the claim made against him at the time the applicant submits their application. The landlord is granted liberty to reapply.

I do not grant the landlord the recovery of the cost of the filing fee as I have not considered the merits of their application.

I note that the landlord failed to provide any proof of loss, from the time of their application through the hearing and it was not clear if the landlord has suffered such a loss due to any alleged actions of the tenant.

As I have refused the landlord's application in which they claimed against the tenant's security deposit, I find the tenant's security deposit must be returned. Pursuant to section 62(3) of the Act, I order the landlord to return the tenant's security deposit of \$840, immediately.

To give effect to this order, I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount \$840, which is included with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the monetary order must be served upon the landlord for enforcement, and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The landlord is cautioned that costs of such enforcement are recoverable from the landlord.

I note that I am unable to grant the tenant's request that the security deposit be doubled, as I find the tenant submitted insufficient evidence that the landlord received his forwarding address in an email on November 9, 2021. This would have meant the landlord's application made on December 2, 2021 would be outside the allowed 15 days of receiving the tenant's written forwarding address, allowing for doubling the security deposit under section 38 of the Act. I have arrived at this conclusion after reviewing the tenant's email evidence on this point. The evidence shows that the landlord acknowledged receiving an email from the tenant with the subject line, "(**tenant name**) – Damage Deposit". However, the tenant did not provide the email he sent to the landlord, which would prove whether the forwarding address was provided in that email.

Conclusion

The landlord's application is refused under section 59(5)(c) as their application lacked sufficient particulars. The landlord has liberty to re-apply.

The landlord is ordered to return the tenant's security deposit, immediately, and the tenant is granted a monetary order in the amount of the \$840, in the event the landlord does not comply with this order.

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*. Pursuant to

section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 18, 2022

Residential Tenancy Branch