



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PR GEORGE & DISTRICT ELIZABETH FRY HOUSING
SOC and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

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

1. An Order to recover money for unpaid rent - holding security and/or pet damage deposit pursuant to Sections 26, 38, 46 and 67 of the Act;
2. An Order for the tenant to pay to repair the damage that they, their pets, or their guests caused during their tenancy - holding security and/or pet damage deposit pursuant to Sections 38 and 67 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 Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenants did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference. The Landlord was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that she was not recording this dispute resolution hearing.

The Landlord testified that she served the Tenants with the Notice of Dispute Resolution Proceeding package on December 17, 2021 by Canada Post registered mail (the "NoDRP package"). The Landlord referred me to the Canada Post registered mail

receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenants were deemed served with the NoDRP package five days after mailing them on December 22, 2021 in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issues to be Decided

1. Is the Landlord entitled to an Order to recover money for unpaid rent?
2. Is the Landlord entitled to an Order for the tenant to pay to repair the damage that they, their pets, or their guests caused during their tenancy?
3. Is the Landlord 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 Landlord testified that this periodic tenancy began on October 1, 2020. Monthly rent is \$1,260.00 payable on the first day of each month. A security deposit of \$630.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord advised that the Tenants sent an email that they would be vacating the rental unit on November 23, 2021. The Landlord secured a new tenant for December 17, 2021 and she is seeking rental income for the short vacate notice from December 1st to the 16th totalling \$650.40.

The Landlord relies on Section 7 of the addendum to the tenancy agreement which states "*The tenant may not do any of the following: ... b) paint, paper, carpet or decorate the residential premises or the residential property.*" The Tenants painted one bedroom wall a dark green, and the painters had to use primer on the wall to cover the dark green paint, then they painted it with two coats of neutral paint to match the rest of the unit. The painters also painted the remaining three walls with a coat of paint, so all the walls matched in the bedroom. It took the painters a total of eight hours to complete the painting job. The Landlord is seeking \$68.50 to cover the painting materials, and \$200.00 to cover the labour for the painting work.

The Landlord uploaded pictures of damage caused by the Tenants' dog, but the Landlord is not seeking monetary compensation for this damage.

The Landlord is seeking a Monetary Order totalling of \$918.90 to cover the lost rental income, paint supplies and labour for the painting job.

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.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 26(1) of the Act specifies the rules about payment of rent. It states, 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. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. The Tenants gave the Landlord less than two weeks notice that they were moving out. Based on the undisputed evidence that the Landlord did not receive a month's notice of the Tenants vacating and based on the Landlord getting a new tenant on December 17, 2021, I find that the Landlord has proved an entitlement to **\$650.40** in unpaid rent.

RTB Policy Guideline #16 addresses the criteria for awarding compensation to an affected party. This guideline states, "*The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.*" This section must be read in conjunction with Section 67 of the Act.

Policy Guideline #16 asks me to analyze 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.

The Landlord pointed to a section of their addendum that was breached by the Tenants painting their bedroom wall with a dark green paint. Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The painters who completed the work needed to prime the wall and coat it with two coats of paint to hide the green paint underneath. The Landlord provided invoices specifying how much the painting materials were and how much the labour costs were to complete the job. I find the Landlord has not claimed for all the damage in the rental unit for which they were left with and the costs for the painting job in the bedroom is not extraordinary. I find the Landlord is entitled to **\$268.50** for the painting work in the bedroom of the rental unit.

The Landlord's claims have met with success, and 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. The Landlord's Monetary Award is as follows:

Monetary Award

Unpaid Rent	\$650.40
Painting Compensation	\$268.50
Application filing fee	\$100.00
Less security deposit	-\$630.00
TOTAL Monetary Award:	\$388.90

Conclusion

I grant a Monetary Order to the Landlord in the amount of \$388.90. 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: August 01, 2022

Residential Tenancy Branch