



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The Centre Pacific Project Marketing Corp. and [tenant name suppressed to protect privacy]

DECISION

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

FC and EZ, agents, attended for the landlord ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

1. Attendance of Tenant

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 20 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

2. Recording

The persons attending were cautioned that recordings of the hearing were not permitted pursuant to Rule 6.11 of the *Residential Tenancy Branch Rules*. They confirmed their understanding of the requirement and further confirmed they were not making recordings of the hearing.

3. *Delivery of Decision*

The landlord confirmed their email address to which a copy of the Decision and any Order will be sent.

4. *Service of Documents*

The landlord testified the tenant moved out without providing a forwarding address.

As the tenant did not attend the hearing, the landlord provided affirmed testimony that the landlord served the tenant by email to the tenant's email address on June 15, 2022 pursuant to the Order for Substituted Service dated June 13, 2022. The landlord testified the documents listed in the Order were attached to the email including the Notice of Hearing, Application for Dispute Resolution and a copy of the Order.

Further to the landlord's testimony and supporting documents, I find the landlord served the tenant as required under the Act on June 20, 2022, five days after mailing, pursuant to sections 89 and 90.

Issues:

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background

The landlord provided uncontradicted testimony as the tenant did not attend the hearing.

The landlord submitted a copy of the tenancy agreement and provided the following details about the background of the tenancy:

ITEM	DETAILS
Type of tenancy	Fixed term
Date of beginning	September 6, 2021
Date tenant moved out	April 30, 2022
Monthly rent payable on 1 st	\$1,450.00
Security deposit	\$725.00
Date of application	May 26, 2022
Forwarding Address	Not provided

Condition Inspection Report

A condition inspection was conducted on moving in. The landlord testified that the unit was in good condition in all relevant aspects as it was new and had never previously been occupied. A copy of the report signed by parties submitted.

The tenant vacated the unit on April 30, 2022. The parties attended a scheduled condition inspection on April 30, 2022. The tenant refused to sign the condition inspection.

Damage to Unit

The landlord testified the unit was new when the tenant moved in and submitted documentary evidence establishing the age of the unit.

Damage to the unit was observed after the tenant moved out and the unit needed cleaning and repairs.

The landlord submitted a comprehensive evidence package which included the condition inspection report on moving in, documentary evidence the unit was new when the tenant moved in, photographs (time and date stamped on move-out), receipts and a quote.

The landlord requested reimbursement of the following expenses:

ITEM	AMOUNT
Stove replacement – receipt submitted	\$2, 789.79
Repairs – quote submitted	\$672.00
Cleaning – receipt submitted	\$105.00
Filing fee	\$100.00
TOTAL CLAIM	\$3,666.79

The landlord requested the security deposit be applied to the award as follows:

ITEM	AMOUNT
Total claim	\$3666.79
(Less security deposit)	(\$725.00)
Monetary Order Requested	\$2,941.79

The landlord requested a monetary order of **\$2,941.79**

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement.

Section 7(1) of the *Act* provided that if a landlord or tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award. The landlord provided credible testimony supported in all material aspects by well-organized and comprehensive document package including receipts and a quote for each claimed expense.

I have considered all the evidence submitted by the landlord. As stated earlier, this evidence included receipts for each item claimed except for the repairs for which an estimate was submitted, testimony that the unit needed cleaning and repairs, and photographs. The evidence was professionally and clearly assembled and presented.

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred the amount claimed in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

As well, in considering all the above-mentioned evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that unit needed repairs when the tenant vacated, the tenant is responsible for the damage, the landlord incurred or will incur the amount claimed in repairs, and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than 'reasonable wear and tear'. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim as follows:

ITEM	AMOUNT
Stove replacement – receipt submitted	\$2, 789.79
Repairs – quote submitted	\$672.00
Cleaning – receipt submitted	\$105.00
Filing fee	\$100.00
TOTAL CLAIM	\$3,666.79

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00. **I authorize the landlord to apply the security deposit to the award. The summary of the award is:**

ITEM	AMOUNT
Total claim	\$3,666.79
(Less security deposit)	(\$725.00)
Monetary Order	\$2,941.79

I grant a monetary award to the landlord in the amount of **\$2,941.79**.

Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$2,941.79**.

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: August 09, 2022

Residential Tenancy Branch