



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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DECISION

Dispute Codes MNDCL-S MNDL-S FFL

Introduction

The landlord seeks compensation against their former tenant pursuant to sections 26, 67 and 72 of the *Residential Tenancy Act* (the “Act”).

Attending the dispute resolution hearing were the tenant and two representatives for the landlord. The tenant and landlord representative P.L. were affirmed and no service issues were raised.

Issue

Is the landlord entitled to compensation?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began on December 1, 2020 and ended on January 28, 2022. Monthly rent was \$1,990.00 and the security deposit was \$995.00. A copy of the written tenancy agreement was submitted into evidence. An addendum to the tenancy agreement, also submitted into evidence, outlines that a parking stall is provided at a “rent” of \$100.00 per month.

In this application the landlord seeks \$1,792.00 to replace a fire-rated door, \$630.00 for move-out charges related to painting and cleaning, \$100.00 for unpaid parking fees for January 2022, and \$100.00 for the application filing fee. A Monetary Order Worksheet was submitted into evidence. A breakdown of the \$1,792.00 and \$630.00 claim was provided in the landlord’s application, and reads as follows:

Cleaning- \$180.00 charge. Stove needed to be clean and fridge. Drapes-\$75.00 charge. No drape cleaning receipt provided. Painting- 4 walls- \$375.00 charge. 4 walls needed to be painted, two in bedroom and two in bathroom. Fire rated lobby door- Quote provided \$1792.00 after tax

The landlord's representative (hereafter the "landlord") testified that while the tenant was entitled to the last month's rent free, this did not include the parking stall rent. The tenant owes this amount.

The landlord testified that the landlord needed to spend four hours of cleaning, cleaning the drapes, and painting the walls at \$75 per wall. The rental unit was last painted just before the tenant moved into the rental unit. There was in evidence a completed condition inspection report.

Regarding the claim for the door, the landlord testified that on December 30, 2021 the landlord or their on-site maintenance staff received a call from the Vancouver Police Department that they needed to access the rental unit. There were reports of screaming in the rental unit and the door appeared to have been barricaded with a sofa. The police then broke down the door in order to gain access. The door was eventually replaced.

The tenant testified that, yes, he was given free rent, but the fact is that the rental unit was—due to the damaged and battered down front door—essentially unlivable. He finds it "funny" that he ought to be liable for paying for parking when he was unable to live in the rental unit.

He testified that he dry decked (I assume he meant the application of spackle) the walls for a few holes. However, there were issues with being able to find a matching paint.

As for the door, the tenant testified that he was going through a breakup at the time, was in the rental unit by himself on December 30, and that he was arguing on the phone. The next thing that happens was someone was banging on the door, saying that they were the police. However, the tenant testified that he did not know whether it was actually the police, and he was panicked and had no intention of just opening the door to anyone. Thanks to some neighbour who called the police because of the yelling, the police battered down the door. He added that it is his understanding that the police require a search warrant before they can knock down a door.

The landlord rebutted that the police would not have had to beat the door down had the tenant simply answered the door.

Analysis

Parking Rent

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement unless the tenant has a right under the Act to deduct all or a portion of the rent. In this tenancy, there was a \$100.00 rent for the parking stall, as clearly outlined in the addendum to the tenancy agreement.

Taking into consideration all of the oral and documentary evidence before me, it is my finding that the landlord has proven on a balance of probabilities that the tenant did not pay the \$100.00 parking stall rent for January 2022. As such, the landlord is awarded \$100.00 in compensation for this aspect of their claim. While it is not lost on me that the rental unit may have been uninhabitable for January, the parking stall was nevertheless in the same condition as it was in December 2021. Should the tenant take the position that they are entitled to compensation on the basis that the parking stall ought not have been charged rent they are at liberty to file their own application.

Fire-Rated Door, Painting, and Cleaning Claim

Section 37(2)(a) of the Act requires that a tenant “leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear” when they vacate.

Taking into consideration all of the oral and documentary evidence before me, I am not persuaded that the tenant was responsible for the police battering down the door. While the landlord’s evidence points to some sort of screaming or yelling in the rental unit, the tenant’s evidence suggests a completely plausible version of events where he was simply engaged in yelling on the phone.

Certainly, the police have the authority under section 529.3 of the *Criminal Code* to enter into a residential property in exigent circumstances. However, it is beyond the scope of my jurisdiction to make any findings as to whether the police had the requisite authority in the circumstances to smash down the door of the rental unit. It is worth noting that no documentation, including a copy of any police report, in respect of the events of December 30 were provided into evidence.

Suffice to say, I am not persuaded that the tenant breached section 37(2)(a) of the Act in respect of the door. It was the actions of a third party—the police—that caused the damage.

However, while the tenant made a reference to spackling the wall of the rental unit, he did not dispute or otherwise attempt to refute the landlord's claim for painting or cleaning the rental unit. The landlord's oral and documentary evidence leads me to find that the landlord is entitled to \$630.00 for painting and cleaning costs.

Claim for Application Filing Fee

Section 72 of the Act permits an arbitrator to order payment of a fee by one party to a dispute resolution proceeding to another party. Generally, when an applicant is successful in their application, the respondent is ordered to pay an amount equivalent to the applicant's filing fee. In this dispute, as the landlord's application was only partly successful, they are awarded \$50.00 for the filing fee.

Summary of Award, Retention of Security Deposit, and Monetary Order

The landlord is awarded \$780.00 in total.

Section 38(4)(b) of the Act permits the Director to authorize a landlord to retain a tenant's security deposit after the end of a tenancy to pay for any liability. As such, the landlord is ordered and authorized to retain \$780.00 of the tenant's \$995.00 security deposit in full satisfaction of the amount awarded.

The landlord is thus ordered to return the balance of \$215.00 of the security deposit within 15 days of receiving a copy of this decision. A copy of a monetary order is issued with this decision to the tenant.

Conclusion

The landlord's application is hereby granted, in part.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: September 27, 2022

Residential Tenancy Branch