



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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A matter regarding MONDOFI (TANDEM) PROPERTIES
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR MNR-DR FFL

Introduction

The landlord seeks a monetary order for unpaid rent, for unpaid utilities, and for compensation related to repairs and cleanup. The landlord also seeks to recover the cost of the filing fee. These claims are made pursuant to sections 26, 67, and 72 of the *Residential Tenancy Act* ("Act"). The tenants have since left the rental unit and the landlord's original request for an order of possession is no longer required.

Two representatives for the landlord attended the hearing on November 8, 2022 and the representative (L.W.) was affirmed for relevant, tendered evidence. The representative confirmed that the tenants were served with both the original Notice of Dispute Resolution Proceeding and the October 25, 2022 amendment to the application by Canada Post registered mail. Based on this undisputed evidence it is my finding that the tenants were served with the required documents necessary for them to participate.

Issue

Is the landlord entitled to compensation as claimed?

Background and Evidence

The tenancy began June 15, 2021 and ended in August 2022. A written tenancy agreement was in evidence which stated that rent was \$2,700.00 (due on the first day of the month). The tenants paid a \$1,375.00 security deposit and a \$1,375.00 pet damage deposit, which the landlord holds in trust pending the outcome of this application.

The landlord's representative gave evidence that the tenants owe \$10,800.00 in unpaid rent, \$1,421.65 in unpaid utilities (copies of utility bills were in evidence), and that the landlord incurred losses of \$8,163.24 for repairs and cleaning that needed to be done in the rental unit after the tenants moved out.

A copy of a condition inspection report (completed at the start of the tenancy) and several colour photographs of the interior of the rental unit depicting the mess and damages were in evidence. Also submitted into evidence was a detailed invoice referencing all of the repairs, cleanup and trash removal, and cleaning.

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.

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 case, there is no evidence or information before me to find that the tenants had a right to withhold or not pay the rent. Therefore, taking into consideration all of the undisputed oral and documentary evidence before me, it is my finding that the landlord has proven on a balance of probabilities that they are entitled to \$10,800.00 in rent.

“Rent” for the purposes of the Act also includes any utilities that must be paid by a tenant. Again, based on the undisputed evidence it is my finding that the landlord has proven its claim for \$1,421.65 in unpaid utilities.

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.

The photographs taken of the rental unit after the tenancy ended, coupled with the information contained in the cleaning and repair invoices, and balanced against the information contained in the condition inspection report completed at the start of the tenancy, leads me to find that the tenants breached section 37(2)(a) of the Act. But for the tenants’ breach of the Act the landlord would not have incurred \$8,163.24 in costs needed to clean, cleanup, and repair the rental unit. In summary, I am persuaded, on a balance of probabilities, that the landlord has proven its claim for this amount.

Last, as the landlord has proven all of its claims and is therefore successful in this application, they are entitled to \$100.00 in compensation to pay for the application for dispute resolution filing fee, pursuant to section 72 of the Act.

In total the landlord is awarded \$20,484.89.

Section 38(4)(b) of the Act permits me to authorize a landlord to retain a tenant's security and pet damage deposits after the end of a tenancy. Accordingly, the landlord is authorized to retain the tenants' security and pet damage deposits totalling \$2,750.00 in partial satisfaction of the above-awarded amount.

Pursuant to section 67 of the Act the tenants must pay \$17,734.89 to the landlord within 15 days of receiving a copy of this Decision. (Or, make a payment plan on terms that are acceptable to the landlord.)

A monetary Order in this amount is issued with this Decision to the landlord. The order must be served upon the tenants, and should the tenants refuse, or fail to, pay the amount then the Order may be enforced in the Provincial Court of British Columbia.

Conclusion

IT IS HEREBY ORDERED THAT:

- 1. the application is granted,**
- 2. the landlord shall retain the tenants' security deposit (\$1,375.00) and pet damage deposit (\$1,375.00),**
- 3. the tenants must pay \$17,734.89 to the landlord, and**
- 4. the landlord is issued a monetary 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 Act.

Dated: November 8, 2022

Residential Tenancy Branch