Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord under the *Residential Tenancy Act* (the Act) on February 17, 2022, seeking:

- Monetary compensation for the cost of repairs to the rental unit; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call on October 6, 2022, at 1:30 P.M. (Pacific Time), and was attended by the Landlord, and two witnesses for the Landlord. All testimony provided was affirmed. No one appeared on behalf of the Tenants. The Landlord and their witnesses were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondents must be served with a copy of the Application, the Notice of Hearing, and any documentary evidence intended to be relied upon by the applicant at the hearing. As neither the Tenants nor an agent for the Tenants attended the hearing, I confirmed service of these documents as explained below.

The Landlord stated that the Notice of Dispute Resolution Proceeding (NODRP) and all the documentary evidence before me on behalf of the Landlord, was sent to the Tenants by registered mail on February 24, 2022, at the forwarding address provided by the Tenants. Registered mail tracking numbers were provided which I have recorded on the cover page of this decision. The Landlords and their Witness P.N., who stated that they are the uncle of the Tenants, stated that they know that the Tenants still resided at this address when the registered mail was sent as it is a small community. Additionally,

they stated that P.N. lives on the same street and therefore they all frequently saw the Tenants at the forwarding address, including after the registered mail was sent.

As there is no evidence before me to the contrary, I accept that the NODRP and the documentary evidence before me from the Landlord was sent to the Tenants by registered mail on February 24, 2022, at a valid forwarding address. I therefore deem them received five days later, pursuant to section 90(c) of the Act, on March 1, 2022. Residential Tenancy branch (Branch) records indicate that the NODRP was made available for pick-up by the Landlord on February 24, 2022. As a result, I find that the NODRP was served in accordance with the Act and the Rules of Procedure. The hearing therefore proceeded as scheduled and I accepted the documentary evidence before me from the Landlord for consideration.

Rule 7.1 of the Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. I verified that the hearing information contained in the NODRP was correct, and I note that the Landlord and their witnesses had no difficulty attending the hearing on time using this information. As the Landlord, their witnesses, and I attended the hearing on time and ready to proceed, and I was satisfied as set out above that the Tenants were deemed served with the NODRP for the purpose of the Act on March 1, 2022, I therefore commenced the hearing as scheduled at 1:30 P.M. on October 6, 2022, despite the absence of the Tenants, pursuant to rule 7.3 of the Rules of Procedure. Although the teleconference remained open for the 43-minute duration of the hearing, no one attended the hearing on behalf of the Tenants.

The participants were advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The participants were asked to refrain from speaking over myself and to hold their questions and responses until it was their opportunity to speak. The participants were also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and the parties confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

At the request of the Landlord, a copy of the decision and any orders issued in their favor will be emailed to them at the email addresses provided at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation for the cost of repairs to the rental unit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord stated that the Tenants caused $13,634.94 in damage to the rental unit. The Landlord stated that the sink in the bathroom had been shaken numerous times by one of the he Tenants' children, therefore disconnecting it from the plumbing and causing significant water damage to the bathroom and a unit below. The Landlord stated that although the sink was replaced, repairs were made to the bathroom, and a lock was installed on the door at the Tenants' request to keep the child out of the bathroom without supervision, this same damage occurred a second time.

The Landlord stated that the toilet was also plugged numerous times by one of the Tenants' children, resulting in several afterhours calls and call outs for plumbers and the ultimate replacement of the toilet. The Landlord stated that although the rental unit had not come with a washing machine, there were washing machine hookups in the property and therefore they permitted the Tenants to bring their own washing machine and have it connected, should they wish to do so. The Landlord stated that the Tenants were responsible for maintenance of the washing machine and having it connected correctly. The Landlord stated that due to a poor connection the washing machine leaked causing water damage.

The Landlord stated that there was also damage to walls and cabinetry from urine, as one of the Tenants' children had been urinating behind the television. Finally, the Landlord stated that there was significant damage to the stove and countertops including numerous burn marks and inoperable elements, as the Tenants' children had been using the kitchen without proper supervision while the Tenants were out. The Landlord stated that as the rental unit had just been renovated prior to the start of the tenancy in May of 2019, all this damage goes well beyond what could reasonably be considered wear and tear.

The Landlord and their witnesses stated that the Tenants agreed to causing the above noted damage in the amount of $13,634.94 and agreed to pay this amount. The Landlord stated that the Tenants made a $5,000.00 payment towards this amount and agreed that the Landlord could keep the security deposit towards the outstanding balance owed. The Landlord stated that when the Tenants failed to make any further payments and cut off communication with them, they filed the Application seeking the remaining balance owed of $8,134.94.

In support of the Application the Landlord submitted a monetary order worksheet, a walk through checklist for the start of the tenancy dated May 15, 2019, a document signed by the Tenant D.P. acknowledging that they had caused the above noted damage to the rental unit, photographs of the rental unit, invoices and receipts for repairs, a copy of a bank draft to the Landlord in the amount of $5,000.00 dated December 18, 2020, and a written timeline and accounting of costs incurred and amounts paid by the Tenants.

Analysis

Section 37(2)(a) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged. Section 7 of the Act states that if a landlord or tenant does not comply with the Act, regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

From the uncontested affirmed testimony of the Landlord and the documentary evidence before me, I am satisfied on a balance of probabilities that the Tenants failed to leave the rental unit reasonably clean and undamaged, except for pre-existing damage, at the end of the tenancy, as required by section 37(2)(a) the Act. I am also satisfied that the Landlord incurred the costs sought at the hearing to return the rental unit to the required level of repair after the end of the tenancy. As a result, I grant the Landlord the $8,134.94 sought at the hearing for repair costs.

As the Landlord was successful in their Application, I also grant them recovery of the $100.00 filing fee pursuant to section 72(1) of the Act. Pursuant to section 67 of the Act, I therefore grant the Landlord a Monetary Order in the amount of $8,234.94, and I order the Tenants to pay this amount to the Landlord.

Conclusion

Pursuant to section 67 of the Act, I grant the Landlord a Monetary Order in the amount of **$8,234.94**. The Landlord is provided with this Order in the above terms and 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 and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: November 4, 2022

Residential Tenancy Branch