



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RLB HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing convened to deal with the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenants applied for a return of their security deposit and pet damage deposit and to recover the cost of the filing fee.

The tenant and the parties representing the landlord (landlord) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me. The parties confirmed receipt of the other's evidence.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Are the tenants entitled to a return of their security deposit and pet damage deposit and recovery of the filing fee?

Background and Evidence

The tenants submitted that the tenancy began on April 1, 2019, and ended on October 31, 2021. The tenants paid a security deposit and pet damage deposit in the amount of \$550, each. Filed in evidence was the tenancy agreement.

In their application, the tenants wrote the following description of claim:

I am requesting 1000\$ to be returned to me, I am willing to pay 100\$ for the damages found in the unit. I am also hoping to get the \$100 fee of this application process returned to me as well

The tenant submitted that they provided the landlord their written forwarding address on the move-out condition inspection report (Report).

The tenant submitted that the landlord made deductions from their security deposit and pet damage deposit and sent a cheque in the amount of \$413.55. The deductions were \$86.45 for the city utility bill and \$600 for repairs. The tenant said they did not cash the cheque, as they did not agree with the deductions.

The tenant said they did not agree to the deductions, but were told by the landlord they would not get their security deposit or pet damage deposit back without signing the report.

The tenant submitted two documents, one titled, "End of Tenancy" and the other, "Rental Unit Condition Report". Both were one page. The End of Tenancy document included the following:

I understand and agree that deductions to my security and/or pet deposit(s) will be made in regards to any items noted on the attached **CONDITION REPORT**, including applicable carpet cleaning fees. I also agree that there may be additional deductions made if damage, above and beyond reasonable wear and tear, is discovered upon further inspection by the property managers. All deductions will be itemized and a list will be provided to me. I also agree that the **FINAL ELECTRICAL BILL**, up to and including my tenancy end date, will be paid by the landlord and the amount will be deducted from my security deposit.

[Reproduced as written]

The tenant submitted she agreed to the electrical bill.

In further explanation, the tenant submitted a written statement, as follows, in part:

*On September 30, 2021, we gave our one month notice in time to move out for the end of October as per the agreement. I gave the unit a deep clean and (*landlord first name*) came to inspect the unit to complete the "Rental Unit Condition Report". As we completed the walkthrough together, a few minor items were noted on the report, none of which were of significant nature, which included: A chip in the tub, a broken string on the blinds and a few things not cleaned to (*landlord first name*) standards.*

*(*landlord first name*) said we could not proceed until we signed a document which stated that the owner of the building would be doing another, more extensive walkthrough. It was communicated to us that any extra damage found by the owner would be taken from the deposit amount.*

*Thinking that we had done our part in leaving the unit in good condition as it says on the "Rental Unit Condition Report", we signed the document. I was led to believe that if the owner was going to find any additional problems with the unit, that he would communicate that to me and we would proceed by coming to an agreement for an amount to be deducted from our damage deposit. (*landlord first name*) informed me that he would be sending me an itemized receipt of the damage (the damages that were already on the rental unit condition report).*

We received a check in the amount of \$413.55 and list of deficiencies (attached). The repair costs were not itemized. The deficiencies were significantly exaggerated in comparison to those mentioned during our walkthrough and we were provided with no proof of these new deficiencies.

There is a total of \$600 listed along with a description of multiple different items (most of which is damage that we DID NOT cause to the unit)

[Reproduced as written except for anonymizing personal information to protect privacy]

In response, the landlord submitted that the tenants caused a considerable amount of damage and they deducted the amounts off the tenant's security deposit and pet

damage deposit. Additionally, the tenants failed to properly clean the rental unit, so further deductions were made.

The landlord submitted a written statement that they underestimated the amount of cleaning and repairs, but had to return a portion within the required timeline.

The landlord submitted photos and explanations for the deductions.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 38(1) of the Act provides that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay any security deposit or pet damage deposit to the tenant or make an application for dispute resolution claiming against the security deposit and pet damage deposit.

If a landlord fails to comply, then the landlord **must** pay the tenant double the security deposit and pet damage deposit, pursuant to section 38(6) of the Act.

In this case, I find the tenants provided their written forwarding address on the tenancy end date of October 31, 2021. I therefore find the landlord was obligated to return the tenant's security deposit and pet damage deposit, in full, no later than November 15, 2021.

In contravention of the Act, the landlord kept part of the tenants' security deposit and pet damage deposit, without filing an application within 15 days, and returned only a portion.

I **order** the landlord to repay the tenants' security deposit of \$550, less the utility bill of \$86.45 and damages of \$100, to which the tenant agreed in their application, and the pet damage deposit of \$550. I also find that the remainder of the security deposit and the full pet damage deposit must be doubled, as noted above.

I grant the tenant recovery of their filing fee of \$100, due to their successful application.

I therefore find the tenants have established a monetary claim of **\$1,927.10**, comprised of their security deposit of \$550, less \$86.45 for the utility bill and \$100 for damage, or **\$363.55, doubled to \$727.10**, the pet damage deposit of **\$550, doubled to \$1,100**, and the filing fee paid for this application of **\$100**.

I grant the tenants a monetary order in the amount of \$1,927.10.

Should the landlord fail to pay the tenants this amount without delay, the order may be served upon the landlord and filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is **cautioned** that costs of such enforcement are recoverable from the landlord.

Information for the landlord –

A security deposit and pet damage deposit are held in trust for the tenants during the tenancy, and must be dealt with according to the Act. I have reviewed the landlord's documents regarding their attempts to hold the tenants responsible for carpet cleaning and other cleaning as well as the final electrical bill. The Act does not allow a landlord to deduct unspecified amounts at the landlord's choosing, as is the case here.

Landlords and tenants are not permitted to contract outside of the Act and the landlord is cautioned that in the future, they may not legally require tenants to agree to unknown and unspecified deductions of their choosing.

Conclusion

The tenants' application is successful, and they are granted a monetary award in the amount of \$1,927.10 as noted above.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 09, 2022

Residential Tenancy Branch