



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. A Monetary Order to recover money for unpaid rent pursuant to Sections 26, 46, 62 and 67 of the Act;
2. An Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit pursuant to Sections 38 and 67 of the Act; and,
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord and the Tenants attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The RTB issued the Landlord's Notice of Dispute Resolution Proceeding package to the Landlord on April 28, 2022. The Landlord testified that he served the Tenants with the Notice of Dispute Resolution Proceeding package and evidence by Canada Post registered mail (the "NoDRP package"). The Landlord did not provide the sent date of the registered mail package; however, the Tenants confirm receipt of the package. I note the Tenants stated that they are not clear if the package contents are just for the Landlord's claim or for their claim, or for both. I find that the Tenants were sufficiently

served with the NoDRP package on May 1, 2022 in accordance with Section 71(2)(b) of the Act.

The Tenants served the Landlord with their evidence by Canada Post registered mail on December 8, 2022. The Tenants referred me to the Canada Post registered mail tracking number as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. The Landlord testified that he did not pick up the Tenants' evidence package from the Canada Post Office. I find that the Tenants' evidence package was deemed served on the Landlord on December 13, 2022 pursuant to Sections 88(c) and 90(a) of the Act.

Issues to be Decided

1. Is the Landlord entitled to a Monetary Order to recover money for unpaid rent?
2. Is the Landlord entitled to an Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit?
3. Is the Landlord entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on November 15, 2021. The fixed term was to end on November 15, 2022. Monthly rent was \$1,700.00 payable on the first day of each month. A security deposit of \$850.00 and a pet damage deposit were collected at the start of the tenancy. In a previous decision, the Tenants were granted a monetary order for \$3,500.00 which included double the deposits (\$3,400.00) and the Tenants' application filing fee (\$100.00). The previous decision file number is noted on the cover page of this Decision.

This tenancy was short-lived. On November 16, 2021, the Tenants came to the rental unit to clean. The Tenants removed the kitchen blinds and took them outside. On November 16, 2021 evening, the Tenants, after spending the day cleaning, sent an email to the Landlord that they decided not to move in. The Tenants requested the return of their deposits as well as the half month's rent they paid for November 2021.

The Landlord is claiming replacement of the broken kitchen blinds as the clips were broken on the wall, and the blinds were all bent. The Landlord could not rehang them as the clips looked yanked out. The Landlord uploaded picture evidence of the kitchen blinds, and the alleged broken clips. The total cost for replacing these blinds was \$201.60, and the Landlord uploaded a receipt for this replacement.

The Landlord is seeking compensation for labour costs to move the fridge back to its original position, and to hang the blinds. The total cost of the labour was \$100.00; however, the Landlord does not have a receipt from the hired help.

The Landlord seeks one month of lost rental income totalling \$1,700.00. The Landlord testified that he went to great lengths to get the suite re-rented. The Landlord secured a new tenant whose tenancy started on December 16, 2021.

The Tenants said they took down the kitchen blinds as they were covered in mould and debris. They washed them, then left them on the kitchen counter to dry. The blinds were not broken and not bent. They were in perfect working order. The Tenants testified that the clips were already bent, and they had difficulty trying to put them back up.

The female Tenant moved the fridge herself as they were attempting to bring the rental unit up to their clean standards. By the end of the day, they had decided they would not be staying in the rental unit, and they left the fridge out as it still was not completely clean underneath.

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.

RTB Policy Guideline #16-Compensation for Damage or Loss addresses the criteria for awarding compensation to an affected party. This guideline states, "*The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.*" This section must be read in conjunction with Section 67 of the Act.

Policy Guideline #16 asks me to analyze whether:

- a party to the tenancy agreement has failed to comply with the Act, Regulation, or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and,
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The Landlord seeks compensation for the following items:

Kitchen blinds

Section 32(3) of the Act states that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant. The Landlord said the clips to the kitchen blinds looked like they had been yanked out of the wall. The Tenants confirmed that they took the blinds down to clean them as they were covered in mould and debris, but they had a difficult time reinstalling them, so they left them on the counter. Section 37(2)(a) states when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find, although this tenancy was short-lived, the Tenants damaged the kitchen blinds. This damage was beyond reasonable wear and tear, and they are responsible to restore them to their installed position. I award the Landlord the full cost of the new blinds totalling **\$201.60**.

Labour

The Landlord seeks a nominal cost for labour to reinstall the kitchen blinds and to move the fridge back to its correct position. The Landlord has not provided a receipt for this expense, and I find the Landlord has not proven the cost for this labour. I decline to award compensation for this part of the Landlord's claim.

Lost Rental Income

This was a fixed term tenancy. RTB Policy Guideline #30-Fixed Term Tenancies states:

C. ENDING A FIXED TERM TENANCY

During the fixed term neither the landlord nor the tenant may end the tenancy except for cause or by agreement of both parties, ...

...

A tenant may end the tenancy if the landlord has breached a material term of the tenancy agreement. The tenant must give proper notice under the Legislation. Breach of a material term involves a breach which is so serious that it goes to the heart of the tenancy agreement. (emphasis mine)

The Tenants left the rental unit within one day of their tenancy because the cleanliness of the rental unit was not up to their standards. There was no agreement between the parties and there was no breach of a material term of the tenancy agreement. The Landlord was able to secure a new tenant in the rental unit whose tenancy began on December 16, 2021, thereby minimizing his loss. I find the Tenants ended their fixed term tenancy earlier than the date specified in the tenancy agreement, and I award the Landlord **\$850.00** for the half month the Landlord lost rental income.

Finally, having been mostly successful, I find the Landlord is entitled to recover the **\$100.00** application filing fee paid to start this application pursuant to Section 72(1) of the Act.

The Landlord is granted a Monetary Award of \$1,151.60 (\$201.60+\$850.00+\$100.00).

Conclusion

I grant a Monetary Order to the Landlord in the amount of \$1,151.60. 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 of British Columbia and enforced as an Order of that Court.

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: January 05, 2023

Residential Tenancy Branch