



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTY MANAGEMENT LTD. (AGENT),
COUNTESS GARDENS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S MNDL-S MNDCL-S FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary claim of \$1,865.09 for damages to the rental unit, site or property, for unpaid rent or loss of rent, for compensation for damages under the Act, regulation or tenancy agreement, to offset any amount owing with the tenant's security deposit, and to recover the cost of the filing fee.

Two agents for the landlord, JM (agents) attended the teleconference hearing and gave affirmed testimony. During the hearing the agents were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated May 11, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The agents testified that the Hearing Package was served on the tenant by registered mail on May 13, 2022. The registered mail tracking number has been included on the cover page of this decision for ease of reference. According to the Canada Post registered mail tracking website, the Hearing Package was mailed on May 13, 2022 and was successfully delivered on May 19, 2022. Based on the above, and without any evidence to prove to the contrary, I find that the tenant was served with the Hearing Package on May 19, 2022.

Residential Tenancy Branch (RTB) Rule 7.3 of the Rules of Procedure (Rules) applies and states the following:

Rule 7.3 Consequences of not attending the hearing

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the tenant and the hearing continued without the tenant present.

Preliminary and Procedural Matter

The agents confirmed the email address of the landlord and the tenant during the hearing. Accordingly, this decision will be emailed to both parties. Any resulting monetary order, if any, will be emailed to the landlord for service on the tenant, if applicable.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on December 1, 2020. The tenant's monthly rent was \$2,050 and was due on the first day of each month. The tenant paid a security deposit of \$1,025 at the start of the tenancy, which the landlord continues to hold. The tenant vacated on August 31, 2021 according to the agents. The landlord filed their application claiming towards the tenant's security deposit on May 2, 2022. The agents testified that the tenant provided their written forwarding address to the landlord on April 29, 2022.

The landlord's monetary claim for \$1,865.09, was submitted as follows:

Document Number	Receipt / Estimate From	For	Amount
#1	AJM Contracting for repair and painting	For repair and painting	400 \$
#2	Sherwin William Receipt	Paint	199.70 \$
#3	10 Day Notice	Unpaid Rent	1001 \$
#4	Enerpro System Corp	Unpaid water utility	164.39 \$
#5	Order from Dispute Resolution Service	RTB filing fee	100 \$
#6			\$
#7			\$
#8			\$
#9			\$
#10			\$
Total monetary order claim			\$ 1865.09

[reproduced as written]

Regarding item 1, the agents testified that \$400 was spent to repair and repaint the rental unit, which is a flat fee the landlord pays and includes all taxes. The agents provided photos to support that the tenant placed large clock letters on the wall that when removed, also damaged the paint and had to be repaired. The agents also presented other photos showing damage to other walls of the rental unit.

Regarding item 2, the agents presented a receipt for \$199.70 for paint related to item 1, which supports the paint used for item 1.

Regarding item 3, the agents testified that the tenant failed to pay \$1,001 in rent arrears as of the end of the tenancy.

Regarding item 4, the agents testified that the tenant failed to pay \$164.39 in an outstanding water utility bill, which was submitted evidence in support of this portion of their claim.

Regarding item 5, the landlord is seeking the recover of the cost of the filing fee.

Analysis

Based on the undisputed documentary evidence and undisputed testimony of the agents provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Hearing Package and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$1,865.09** which includes the recovery of the cost of the filing fee in the amount of **\$100** as the landlord's application is successful. I have considered the undisputed testimony of the landlord and that the application was unopposed by the tenant. The landlord continues to hold the tenant's security deposit of \$1,025, which has accrued \$1.64 in interest during the tenancy under the Act. Therefore, I find the landlord continues to hold a security deposit including interest of **\$1,026.64**.

I find the tenant breached section 26 of the Act by failing to pay rent on the date that it is due.

I find the tenant breached section 37(2)(a) of the Act by failing to leave the rental unit undamaged and that the damage exceeded normal wear and tear based on the undisputed photo evidence before me.

I authorize the landlord to retain the tenant's full security deposit including interest of \$1,026.64 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of **\$838.45**.

Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit including interest of \$1,026.64 in partial satisfaction of the landlord's monetary claim.

The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$838.45.

The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

The tenant is reminded that they can be held liable for all costs related to enforcement of the monetary order including court costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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*.

Dated: January 30, 2023

Residential Tenancy Branch