



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY GROUP LANDS CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL, MNDCL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. On May 12, 2022 the landlord applied for:

- compensation for damage caused by the tenant, their pets, or guests to the unit or property;
- compensation for monetary loss or other money owed, requesting to retain the security and/or pet damage deposit; and
- the filing fee.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Neither party raised an issue regarding service of the hearing materials.

Issues to be Decided

- 1) Is the landlord entitled to compensation for cleaning costs?
- 2) Is the landlord entitled to compensation for unpaid utilities?
- 3) Is the landlord entitled to liquidated damages because the tenant ended the fixed term early?
- 4) Is the landlord entitled to the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The tenancy began on January 1, 2022, for a fixed term ending on December 31, 2022; rent was \$1,900.00, due on the first of the month; and the tenant paid a security deposit of \$950.00 which the landlord still holds and has applied to retain.

The parties agreed that a move-in inspection was completed and a copy of the report was given to the tenant. The tenant submitted an email dated March 22, 2022, from the tenant to the landlord, in which the tenant tells the landlord he is giving notice to end the tenancy, and that he is concerned about his safety and the safety of his property.

The tenant moved out on April 30, 2022. The landlord conducted a move-out condition inspection of the rental unit without the tenant. The tenant testified that they did not receive a copy of the move-out condition inspection report and the tenant has not provided the landlord with his forwarding address.

The tenant testified that they had to move out early because their cars were vandalized and they feared for their safety. The tenant did not provide any testimony or evidence about their engagement with a law enforcement authority about the vandalism.

The landlord testified the tenant was offered a different parking spot and relocation to another unit in one of the landlord's 15 properties. The tenant testified that agents of the landlord told him that he wouldn't have to pay liquidated damages if he vacated by April 30, 2022, which he did.

The landlord is seeking \$986.00 compensation for costs to clean the unit after the tenant vacated. The landlord submitted as evidence an email dated April 30, 2022, in which the tenant states he has left the apartment, the keys are in the unit, and the door is unlocked. Submitted as evidence are photos of the unit showing belongings and garbage left behind, and that the unit requires cleaning. Also submitted is a Monetary Order Worksheet, indicating that the landlord paid \$650.00 for removal of garbage and abandoned items, and \$336.00 for eight hours of cleaning.

The tenant testified that he was pressured by the landlord's agents to leave by April 30, 2022 and this caused him to leave hastily and be unable to move all of his belongs and clean up.

The landlord is seeking \$503.66 for unpaid hydro and \$950.00 for liquidated damages.

The tenant stated that he agrees to the landlord retaining \$503.66 of the security deposit to pay for the hydro. The tenant disputes that he is required to pay for liquidated damages because he had to vacate early because he feared for his safety, and the landlord's agents told him the tenancy would end on April 30, 2022 without penalty.

The landlord referred to the signed tenancy agreement which states, at part 6, that the tenant will pay \$950.00 if the tenant breaches a material term of the agreement that causes the landlord to end the tenancy before the end of any fixed term. The landlord testified they had to pay for a leasing specialist to advertise the unit on many different websites, and had to schedule viewings with prospective tenants before they were able to rent the unit effective June 1, 2022.

Analysis

Pursuant to section 45, a tenant cannot end a fixed term tenancy earlier than the date specified in the tenancy agreement as the end of the tenancy. Although the tenant may have indeed felt threatened by the vandalism, the tenant did not substantiate on a balance of probabilities that they were a victim of household violence pursuant to 45.1(1). I find the tenant breached the Act and the tenancy agreement by giving notice on March 22, 2022 and vacating on April 30, 2022.

The landlord filed their application to retain the tenant's security deposit for unpaid utilities and liquidated damages on May 12, 2022 which is within the 15-day period pursuant to section 38(1) of the Act. The value of the tenant's security deposit is \$950.00 plus \$1.98 in interest.

As explained in Policy Guideline 4, a liquidated damages clause is a clause in a tenancy agreement where the parties agree in advance the damages payable in the event of a breach of the tenancy agreement. The damages should be a genuine pre-estimate of the loss at the time the contract is entered into. The tenant agreed to the clause when they signed the tenancy agreement and the tenant has not proven on a balance of probabilities that the landlord waived this clause when the tenant vacated the unit before the end of the fixed term.

In this case the landlord's amount is equivalent to value of the security deposit or half a month's rent. This sum is not extravagant and was a reasonable estimate of the costs the landlord would incur if the tenancy ended earlier than the end date of the fixed term. I find the landlord is entitled to \$950.00 in liquidated damages.

The tenant has agreed the landlord is entitled to \$503.66 for the hydro bill.

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. During his testimony, the tenant acknowledged that the unit was not emptied of his belongings when he vacated. By leaving belongings in the unit, and vacating the unit without leaving it reasonably clean, I find the tenant has contravened the Act. I accept the landlord's affirmed undisputed testimony that they spent \$986.00 for cleaning and removal of the tenant's belongings and is entitled to recover the \$986.00.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in their application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

I find the landlord is entitled to a monetary order as follows:

Cleaning	\$986.00
Hydro	\$503.66
Liquidated damages	\$950.00
Filing fee	\$100.00
Less security deposit and interest	-\$951.98
Amount owed to landlord	\$1,587.68

Conclusion

The landlord is granted a monetary order in the amount of **\$1,587.68**. The monetary order must be served on the tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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*.

Dated: February 08, 2023

Residential Tenancy Branch