



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Westwynd Realty
and [tenant name suppressed to protect privacy]

DECISION

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. A Monetary Order for compensation - Section 67
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s supported evidence that the Tenant authorized the Landlord to serve documents by email to the email address provided to the Landlord. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by email on January 29, 2023 in accordance with Section 89 of the Act. Section 44 of the Regulations provides that a document given or served by authorized email is deemed to be received on the third day after it is emailed. Given the evidence of email I find that the Tenant is deemed to have received the Hearing package on February 1, 2023. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on August 1, 2021 and ended on December 1, 2022. Rent of \$6,000.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$3,000.00 and a pet deposit of \$3,000.00. The tenancy agreement includes a "Form K" attaching the Strata Rules to the tenancy. Parties mutually conducted a move-in inspection with a completed inspection report copied to the Tenant. After more than two offers for a move-out inspection the Tenant declined the last offer and did not attend the move-out inspection. The Landlord completed the move-out inspection and copied the completed report to the Tenant.

The Tenant left the unit with a significant amount of garbage and other items. The Tenant left the unit having done no cleaning. The unit is over 6,000 square feet. The Landlord provides photos and an invoice. The Landlord claims the removal and cleaning costs of \$1,907.50.

The Tenant left the unit walls damaged and requiring paint. The unit was new at the onset of the tenancy. The Landlord provides photos and an invoice. The Landlord claims the paint costs of \$840.00.

The Tenant breached the Strata rules and the Landlord claims the fines of \$100.00 and \$200.00. The Landlord provides a copy of communications with the Strata in relation to the fines.

The Landlord was unable to rent the unit for December 2022 due to the damages and repair work that was required. The Landlord advertised the unit on December 15, 2022 for rent of \$5,500.00. A new tenancy was in place for January 1, 2023. The Landlord claims lost rental income of \$6,000.00.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the undisputed evidence that the Tenant failed to remove all items from the unit, failed to leave the unit reasonably clean, and left the unit damaged beyond reasonable wear and tear I find that the Landlord has substantiated that the Tenant breached their obligations under the Act. Given the invoices I find that the Landlord has substantiated an entitlement to **\$1,907.50** and **\$840.00**.

Based on the Landlord's undisputed evidence that the Tenant breached the Strata rules causing two fines, I find that the Landlord has substantiated an entitlement to **\$300.00**.

Based on the Landlord's undisputed evidence of the cleaning and repairs left by the Tenant and the undisputed evidence of advertising the unit for a lower rental rate, I find that the Landlord has substantiated that they lost rental income for December 2022 and that they took reasonable steps to mitigate the losses caused by the Tenant. The Landlord is therefore entitled to **\$6,000.00**.

As the Landlord's claims have been successful, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$9,147.50**. Deducting the combined security and pet deposits of **\$6,000.00** plus interest of **\$23.72** leaves **\$3,123.78** owed to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of **\$6,019.87** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$3,123.78**. If necessary, this order may be filed in the Small Claims Court 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: March 15, 2023

Residential Tenancy Branch