



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

This hearing was scheduled to convene at 1:30 p.m. on March 3, 2023 concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for damage to the rental unit or property; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony, and called 1 witness who also gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Notice of Dispute Resolution Proceeding (the Hearing Package) and all evidence by registered mail on September 8, 2022 and has provided copies of a Canada Post cash register receipt containing that date and a Registered Domestic Customer Receipt. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issues for me to decide are:

- Has the landlord established a monetary claim as against the tenant for unpaid rent?

- Has the landlord established a monetary claim as against the tenant for damage to the rental unit or property?
- Should the landlord be permitted to keep the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent (CB) testified that this fixed-term tenancy began on November 1, 2018 and reverted to a month-to-month tenancy after October 31, 2019, which ultimately ended on July 31, 2022. A copy of the tenancy agreement has been provided for this hearing which shows that rent in the amount of \$1,608.00 was payable on the 1st day of each month. The landlord has also provided a copy of a Notice of Rent Increase which raised the rent to \$1,628.00 effective February 1, 2022. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$804.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The tenant failed to pay the full rent for the month of June, 2022, leaving a balance outstanding of \$616.00. The tenant further failed to pay any rent for July, 2022, and is currently in arrears of rent the sum of \$2,244.00.

A move-in condition inspection report was completed at the beginning of the tenancy, and a move-out condition inspection report was completed at the end of the tenancy. The tenant did not sign the move-out portion, but signed a Security Deposit Return Form agreeing to the following claims totaling \$3,098.00:

- \$2,464.00 for rental arrears;
- \$147.00 for carpet cleaning;
- \$397.00 for flooring repairs or replacement; and
- \$90.00 for drapery cleaning or replacement.

The landlord claims \$5,913.00 for estimated charges, and photographs have been provided for this hearing.

The tenant provided a forwarding address in writing on the Security Deposit Return Form on August 3, 2022.

The landlord's witness (PB) is a property manager and testified that on August 3, 2022 the tenant provided a forwarding address on the Security Deposit Return Form.

Rent for June, 2022 was not paid in full, and no rent was paid for July, 2022. The tenant owes \$2,244.00 as well as \$220.00 for N.S.F. fees.

The landlord also claims \$30.00 per hour, or \$780.00 for 26 hours of cleaning; \$1,160.00 for painting and \$50.00 for missing fobs.

During the witness' testimony, I was asked if I was advocating for the tenant, to which I replied that I am not advocating for the tenant, but attempting to determine whether or not the landlord has proven the claim.

Analysis

Firstly, I accept the undisputed testimony of the landlord's witness that the tenant owes \$2,244.00 for June and July, 2022 rent. The landlord also claims \$20.00 for each of 11 rent payments that were returned for insufficient funds. The landlord has not provided any evidence of that, however the tenant agreed on the Security Deposit Return Form to **\$2,464.00**, and I find that the landlord has established that claim for unpaid rent.

In order to be successful in a claim for damages, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

In this case, the tenant agreed to **\$147.00** for carpet cleaning, **\$397.00** for carpet and flooring repairs or replacement and **\$90.00** for drapery cleaning, and I am satisfied that the landlord has established those claims. I have also reviewed the photographs provided by the landlord, and I agree that the claim of **\$780.00** for cleaning was done by the caretaker, and no invoice is required.

The landlord has not provided any receipts or invoices to satisfy the claims for painting or missing fobs, and has therefore not satisfied element 3 in the test for damages. I dismiss those claims.

Since the landlord has been partially successful with the application the landlord is also entitled to recovery of the **\$100.00** filing fee.

Having found that the landlord has established claims totaling \$3,978.00 (\$2,464.00 + \$147.00 + \$780.00 + \$397.00 + \$90.00 + \$100.00), I order the landlord to keep the \$804.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord for the difference in the amount of **\$3,174.00**. The tenant must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as a judgment.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$804.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$3,174.00**.

This order is final and binding and may be enforced.

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: March 03, 2023

Residential Tenancy Branch