



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding SKYLINE LIVING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNRL-S, MNDL-S, MNDCL-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 – holding security and/or pet damage deposit pursuant to Sections 38, 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;
3. A Monetary Order for compensation for a monetary loss or other money owed – holding security and/or pet damage deposit pursuant to Sections 38 and 67 of the Act; and,
4. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agent attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord's Agent and I were the only ones who had called into this teleconference. The Landlord's Agent was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord's Agent that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that she was not recording this dispute resolution hearing.

The Landlord's Agent testified that she served the Tenant with the Notice of Dispute Resolution Proceeding package and evidence on June 27, 2022 by Canada Post registered mail (the "NoDRP package"). The Landlord's Agent referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the NoDRP package five days after mailing them on July 2, 2022 in accordance with Sections 89(1)(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 – holding security and/or pet damage?
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 a Monetary Order for compensation for a monetary loss or other money owed – holding security and/or pet damage deposit?
4. 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 Landlord's Agent testified that this tenancy began as a fixed term tenancy on March 5, 2021. The fixed term ended on March 31, 2022, then the tenancy continued on a month-to-month basis. Monthly rent was \$1,786.40 payable on the first day of each month. Indoor parking spaces were charged at \$79.00 per month, and outdoor parking spaces were charged at \$53.79. A security deposit of \$955.00 and a pet damage deposit of \$955.00 were collected at the start of the tenancy and are still held by the Landlord. The Landlord's Agent stated the tenancy ended on May 30, 2022.

The Landlord is claiming repayment of unpaid rent for the month of April 2022 plus one indoor parking space, and two outdoor parking spaces totalling \$1972.98. The Landlord is claiming repayment of unpaid rent for the month of May 2022 plus one indoor parking space and one outdoor parking space totalling \$1,919.19. The Tenant did not provide

notice to the Landlord that he was vacating, so the Landlord is claiming \$1,919.19 for June 2022.

The Landlord is claiming \$50.00 for two non-sufficient fund rental payments for April and May 2022.

The carpets were initially laid in 2018. When the Tenant vacated, part of the Tenant's carpet was tore by his pets, the Landlord is assuming. The Landlord's move-out condition inspection report makes notes that carpets will be charged back to the Tenant. The Landlord, after receiving a quote, is claiming \$4,089.90 for carpet replacement. The Landlord's Agent said there was no transition at the bedroom doorway, so they had to replace all the carpets rather than just the room that had the torn carpet.

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.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Liability for not complying with this Act or a tenancy agreement

- 7** (1) *If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.*
- (2) *A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.*

Tenant's notice

- 45** (1) *A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*
- (a) is not earlier than one month after the date the landlord receives the notice, and*
 - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*

The Tenant did not give the Landlord notice to end the tenancy. Pursuant to Section 45(1)(a) of the Act, the Tenant may give notice on a date that is not earlier than one month after the date the landlord receives the notice. The Landlord is entitled to rent for the month of June 2022 and I grant the Landlord rent for the month of June 2022.

Leaving the rental unit at the end of a tenancy

- 37** ...
- (2) *When a tenant vacates a rental unit, the tenant must*
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and*
- ...

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 Tenant left the rental unit with a torn carpet which was beyond reasonable wear and tear when he vacated the rental unit breaching Section 37(2)(a) of the Act. I find the Landlord has proven on a balance of probabilities that they incurred these expenses of carpet repair. I grant the Landlord \$4,089.90 to replace the carpets in the rental unit.

Pursuant to Section 72(2)(b) of the Act, I Order that the Landlord is authorized to retain the security deposit and pet damage deposit held by the Landlord in partial satisfaction of the monetary award. Having been successful, I find the Landlord is entitled to recover the application filing fee paid to start this application, which I order may be deducted from the security deposit held pursuant to Section 72(2)(b) of the Act. The Landlord is entitled to the following monetary award:

Item	Amount
Unpaid rent - April 2022	\$1,972.98
NSF April	\$25.00
Unpaid rent - May 2022	\$1,919.19
NSF May	\$25.00
Unpaid rent - June 2022	\$1,919.19
Carpet replacement	\$4,089.90
Less security deposit	-\$955.00
Less pet damage deposit	-\$955.00
Plus application filing fee	\$100.00
TOTAL:	\$8,141.26

Conclusion

I grant a Monetary Order to the Landlord in the amount of \$8,141.26. The Tenant must be served with this Order as soon as possible. Should the Tenant 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: March 28, 2023

Residential Tenancy Branch