



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDL-S FFL

Introduction

This dispute relates to the landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. \$2,063.25 for damages,
2. Retain security deposit towards amount owed,
3. \$100 filing fee.

An agent for the landlord (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was 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 tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated July 20, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The agent presented a Mutual Agreement to End Tenancy dated June 23, 2022 (Mutual Agreement) whereby the tenants provide their email address for service. That email address has been included on the cover page of this decision for ease of reference. The agent also confirmed that the Hearing Package was emailed to the tenants on July 23, 2022, and the emails were submitted in evidence in support of service.

I have reviewed the emails and find that the tenants were deemed served 3 days after July 23, 2022, according to section 44 of the Regulation, which I find is July 26, 2022. As the tenants did not attend the hearing, I consider this matter to be undisputed by the tenants and the hearing continued without the tenants present in accordance with Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

Preliminary and Procedural Matter

The landlord confirmed the email addresses of both parties during the hearing. The landlord was advised that that the decision would be emailed to both parties.

Issues to be Decided

- Are the landlords entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenants' security deposit under the Act?
- Are the landlords entitled to the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on July 1, 2021. The tenancy ended by the signed Mutual Agreement. Monthly rent was \$2,750 and was due on the first day of each month. The tenants paid a security deposit of \$1,350 at the start of the tenancy, which the landlords continue to hold.

The landlords' claim for \$2,163.25 is comprised as follows:

1. \$1,564.50 in damages,
2. \$498.75 in cleaning costs,
3. \$100 filing fee.

Regarding item 1, the agent submitted a detailed invoice dated June 30, 2022, for \$1,564.50, which indicates all of the repairs required to the rental unit including but not limited to the following:

- Wall touch ups with paint,
- Towel hanger repair,
- Master bedroom bathroom door repair,
- Toe kick plate replacement,
- 2nd Bedroom electric baseboard inspect and reinstall,
- Laundry closet toe kick plates replacement,
- Ceiling stain repair,
- Countertop repair and repaint,
- Screen door repair.

The invoice matches the total claimed and the agent presented many colour photos in support of this item.

Regarding item 2, the landlord submitted a receipt for \$498.75 dated July 4, 2022, for cleaning services including the cleaning of the following:

- Kitchen appliances,
- Kitchen cabinets,
- Walls x 3,
- Floor/laminate throughout,
- Glass door, sliding door,
- Windows x 2,
- Bathrooms,
- General stains, dirt, garbage.

The receipt matches the amount claimed and photo evidence was presented in support of this item. The agent also presented the Condition Inspection Report (CIR) and indicated that the tenants declined to participate in the completion of the CIR. The agent stated that a friend of the tenants just left without signing the CIR on June 22, 2022.

Analysis

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

As the tenants were served with the Hearing Package and did not attend the hearing, I consider this matter to be unopposed by the tenants.

Section 37(2) of the Act applies and states:

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

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

[emphasis added]

Based on the above, I find the tenants breached sections 37(2)(a) of the Act. I find the photo evidence and documents provided by the landlords support the full amount claimed for damages and cleaning costs. I find the photo evidence supports that the tenants damaged the rental unit beyond reasonable wear and tear. I also find that the tenants left the rental unit in a dirty condition that required extensive cleaning. As a result, I find the landlords have established their total monetary claim of **\$2,163.25**, which also includes the \$100 filing fee pursuant to section 72 of the Act. I decline to apply any depreciation due to damages which I find exceed normal wear and tear.

Pursuant to section 38 of the Act, as the as the landlords continues to hold the tenant's security deposit of \$1,350, which has accrued \$7.86 in interest to date, I grant the landlords authorization to retain the tenants' full \$1,357.86 security deposit, which includes interest to offset the \$2,163.25 amount owing. I grant the landlords a monetary order pursuant to section 67 of the Act, for the remaining balance owing by the tenants to the landlords in the amount of **\$805.39**.

I caution the tenant not to breach section 37(2)(a) of the Act in the future.

Conclusion

The landlords' application is fully successful.

The landlords have established a total monetary claim of \$2,163.25 as described above. The landlords have been authorized to retain the tenants' full security deposit of \$1,357.86 including interest, in partial satisfaction of the landlords' monetary claim. The landlords have been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenants to the landlords in the amount of \$805.39. The landlords must serve the tenants with the monetary order and may enforce the monetary order in the British Columbia Provincial Court, Small Claims Division. The tenants are reminded

that they can be held liable for all costs related to enforcement of the monetary order including, but not limited to, court costs.

The tenants have been cautioned as described above.

This decision will be sent by email to both parties. The monetary order will be sent by email to the landlords only for service on the tenants.

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: April 19, 2023

Residential Tenancy Branch