



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RIVERWALK VILLAS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

The Landlord applied for dispute resolution on April 13, 2018, under the *Residential Tenancy Act* (the “Act”), seeking a monetary order for damages to their property, compensation for lost rent, and for the cost of the filing fee.

The Tenant, the Tenant’s advocate (the “Advocate”) and the Landlord’s agent (the “Agent”) attended a hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damages to their property?
2. Is the Landlord entitled to a monetary order for compensation for lost rent?
3. Is the Landlord entitled to a monetary order for the cost of the filing fee?

Background and Evidence

Landlord’s Claim for Property Damage and Cleaning Costs

The Landlord testified that the Tenant moved into the rental unit on March 15, 2017, and moved out on April 3, 2018. Monthly rent was \$850.00 and the Tenant paid a \$425.00 security deposit. The Landlord completed a move-in and move-out condition inspection report (the “Report”), which they submitted into evidence. The Landlord claims that the Tenant did not wash or clean the walls of the rental unit, which lead to the Landlord’s employees spending four hours cleaning.

On page 2 of the Report, under the column titled “LIVING ROOM,” and next to the item

“Floor/Carpet,” there is a comment that reads “crack in baseboard [illegible]”. Next to the item “Air conditioner/Cover” there is a comment that reads “by closet walls dirty”. Finally, under the column titled “MASTER BEDROOM” and item “Walls and Trims” there is a comment that reads “[illegible] around door not washed”. At the bottom of the report, there is a comment that the Tenant is responsible for “baseboard crack, wash walls”. The Landlord signed the report. The Tenant refused to sign the report because they disagreed with the content.

The Landlord seeks \$150.00 in compensation. Cleaning the rental unit took four hours and cost the Landlord \$25.00 an hour. Repairs to the baseboard cost \$50.00 for supplies and labour. Submitted into evidence is a “move out statement” which describes the above-noted costs attributed to cleaning the walls and repairing the baseboard. In addition, the Landlord submitted into evidence a “quote from staff” which provides a breakdown of costs. The Landlord submitted into evidence various photographs of the walls, and the damaged baseboard.

The Tenant testified that they accept responsibility for the damaged baseboard and agree with the claim of \$50.00. However, they disagreed with the Landlord’s assertion that the walls were dirty and needed washing. The Tenant concedes that if the walls were dirty as alleged that it would not take four hours to clean. The Advocate argued that the Landlord has not provided a lot of information regarding the walls, and has thus not established their claim.

Landlord’s Claim for Compensation for Loss of Rent

The Landlord testified that they lost rent for one month due to the Tenant telling a new tenant that the building was infested with bed bugs, thus causing the new tenant to move out within three days of moving in.

The Landlord testified that in January 2018 they discovered bed bugs in a couple of rental units in their 55-unit apartment building. The Landlord immediately conducted full bed bug extermination treatments in those rental units and further preventative treatments in 17 additional rental units. In February, the Landlord found more bed bugs in additional rental units, including some bugs in the Tenant’s rental unit. The Tenant did not want full treatment in their rental unit (for personal reasons related to their mother’s recent death) and instead allowed a less-intrusive preventative treatment.

On March 23, 2018, a new tenant moved into a rental unit next door to the Tenant. The

Landlord testified that they explained to the new tenant that there were bedbugs in the building, but that they had been treated.

Two days later, on March 25, the Tenant and the new tenant were relaxing on their balconies, discussing the “many fine attributes of the building,” but the discussion soon turned to bed bugs. The Tenant testified they told the new tenant that there were bed bug issues in the building. They did not, as the Landlord claims, tell the new tenant that the “building was infested.”

On that same day, the Tenant gave notice to the Landlord that they were moving out “due to Bedbugs in the building” (the Tenant’s notice was a handwritten letter, submitted into evidence by the Landlord).

Within the next few days, the Tenant gave a copy of their notice to the new tenant, and on March 27 the new tenant gave notice to the Landlord. Their notice, a typed letter submitted into evidence by the Landlord, stated that “this note that she left me has me really scared. I can’t live here knowing there is bedbugs in the walls.” The letter also states, “I asked Management prior to moving in if the building had bedbugs and they advised that they had done some treatment in a few units a few months prior to this and that the problem was addressed and there have been no new reported problems.”

The new tenant moved out on March 27 (the Tenant thought it was March 25), and the Landlord testified that they refunded the new tenant’s rent for April (\$845.00).

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.

Landlord’s Claim for Property Damage and Cleaning Costs

The Landlord seeks compensation under section 67 of the Act for the cost of repairing the baseboard and for cleaning the walls.

The Landlord submitted the Report which indicates that only two specific walls were dirty or needed washing: (1) “by closet walls dirty” and (2) “around door not washed.” There is the general statement in the Report “wash walls.” The Tenant disagrees with the Landlord’s assessment and refused to sign the Report. The Landlord provided

copies of photographs purportedly showing dirty walls. The less-than-desirable quality of the photographs does not assist me in finding as a fact that the walls were dirty or that they needed washing.

When opposing parties in a dispute provide equally reasonable accounts of events or circumstances related to the dispute, the party making the claim must provide sufficient evidence over and above their testimony to prove their claim. In this case, I find that the Landlord has failed to provide sufficient, additional evidence that the walls were dirty or that they needed four hours of cleaning. Thus, I find that the Landlord has not met the onus of proving that the Tenant dirtied the walls and responsible for the cost of cleaning.

The Tenant concedes that they damaged the baseboard in the amount of \$50.00.

I order that the Landlord may retain \$50.00 of the security deposit to satisfy their claim for the baseboard damage. I order that the Landlord return \$375.00 of the security deposit to the Tenant.

Landlord's Claim for Compensation for Loss of Rent

The Landlord seeks compensation under section 67 of the Act for loss of rent due to the Tenant telling a new tenant about bed bugs in the building, resulting in the new tenant moving out.

In determining whether compensation is due, I must determine if (1) a party to a tenancy agreement failed to comply with the Act, regulation or tenancy agreement, (2) loss or damage resulted from the non-compliance, (3) the party who suffered the damage or loss can prove the amount or value of the damage or loss, and (4) the party who suffered the damage, or loss, acted reasonably to minimize the damage or loss.

In this case, the Landlord claims to have suffered a loss of rent due to the new tenant moving out because of the new tenant's fear of bed bugs, which was brought about by their conversation with the Tenant. While the Tenant's letter refers to bed bugs in the walls, the remainder of the letter refers entirely to bed bug issues in early February 2018, several weeks before the new tenant arrived. The new tenant's letter acknowledges that the new tenant discussed with management the issues with bed bugs. The Landlord confirmed that this discussion occurred. While the new tenant may have been made more excitable by the Tenant's letter (and, I infer, by their conversation) regarding bed bugs, the new tenant is the party responsible for terminating their tenancy. The only difference between what the Landlord told the new

tenant and what the Tenant told the new tenant was that the Tenant spoke of bed bugs still being in the walls. I find as a fact that the building had a bed bug issue.

The Tenant did not, in either speaking with the new tenant or providing them with a copy of a letter, breach the Act, regulation or tenancy agreement. As such, the Tenant is not responsible for the loss of rent caused by the new tenant ending their tenancy three days after moving in.

Accordingly, I find that the Landlord has not met the onus of proving on a balance of probabilities that the Tenant caused a loss of rent to the Landlord, and I dismiss that part of the Landlord's claim with leave to reapply.

Conclusion

The Landlord may retain \$50.00 of the security deposit in full satisfaction of their claim for damage to the baseboard.

I grant the Tenant a monetary order in the amount of \$375.00. This order must be served on the Landlord and may be filed in, and enforced as an order of, the Provincial Court of British Columbia (Small Claims).

I dismiss the Landlord's application for an order for compensation for loss of rent, without leave of reapply.

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: June 14, 2018

Residential Tenancy Branch