



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S MNDL-S FFL

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for authority to retain the tenant's security deposit, a monetary order for alleged damage by the tenant to the rental unit, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on May 5, 2019. The landlord provided the copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing, which is shown on the style of cause page of this Decision.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The hearing process was explained to the landlord and he was given an opportunity to ask questions about the hearing process. Thereafter, the landlord was provided the opportunity to present his evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order for monetary compensation and to recovery of the filing fee paid for this application?

Background and Evidence

The written tenancy agreement submitted by the landlord shows that this tenancy began on November 1, 2018, and that the monthly rent was \$875.00. The landlord submitted that the tenant vacated the rental unit March 31, 2019. The written tenancy agreement shows that the tenant paid a security deposit of \$437.50 and a pet damage deposit of \$337.50.

The landlord's monetary claim is \$1,227.60, for cleaning, restoration and repairs for the rental unit and loss of rent revenue for eight days of April, 2019, for \$230.16.

The landlord's additional relevant documentary evidence included, but was not limited to, the move-in and move-out condition inspection report, an invoice for the amount of his monetary claim for work on the house, and photographs of the state of the rental unit at the end of the tenancy.

Cleaning, repair and restoration-

The tenant testified that the tenant failed to clean the rental unit and it was in such a bad condition, the rental unit was not suitable for a new tenant.

The landlord submitted that the condition inspection report ("CIR") shows that at the end of the tenancy, the living room and entrance way walls were severely damaged, requiring wall work and painting; that the floors were dirty and severely damaged through-out; the oven was very dirty; the windows were damaged; the rental unit had been smoked in; and several bags of garbage had to be removed.

The landlord further said that the tenant left cigarette butts and cat hair all over the rental unit at the end of the tenancy.

The landlord submitted that the floors had been re-done prior to the start of the tenancy.

The landlord referred to the receipt from a service company, which showed the itemized listing of services performed, such as cleaning, wall, window, and floor repair, painting, garbage collection, and materials, for a total of \$1,227.60.

Loss of rent revenue-

The landlord submitted that the cleaning and restoration work was not completed until April 8, 2019, which caused him to suffer a loss of rent revenue from April 1-8, 2019, for which is entitled to recover from the tenant.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlord in this case, has the burden of proof to substantiate their claim on a balance of probabilities.

In light of the tenant's failure to appear to provide a rebuttal to the landlord's evidence, despite being duly served, I accept the landlord's undisputed evidence.

Cleaning, repair and restoration-

As to the costs claimed by the landlord associated with cleaning and repairs for damage, Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged except for reasonable wear and tear.

I find the landlord submitted sufficient, unopposed evidence that the rental unit required extensive cleaning as the tenant failed to leave the rental unit reasonably clean. I also find the landlord submitted sufficient evidence to demonstrate that the tenant damaged the rental unit during the tenancy, which required repairing.

Upon examination of the invoice evidence submitted by the landlord and in comparison to the photographs and CIR, I find the landlord's costs to be reasonable. I therefore find the landlord is entitled to a monetary award as claimed of \$1,227.60.

Loss of rent revenue-

As I have found that the landlord proved that the rental unit needed cleaning and repairing after the tenancy ended, I find it reasonable that he would suffer a loss of rent revenue for the first eight days of April 2019, as the restoration work took that long.

I grant the landlord recovery of his filing fee of \$100.00, due to his successful application and pursuant to section 72(1) of the Act.

I therefore grant the landlord a monetary award of \$230.16 ($\$875.00 \text{ monthly rent} \times 12 \text{ months} = \$10,500.00 \text{ yearly rent} \div 365 \text{ days} = \$28.77 \text{ daily rate} \times 8 \text{ days} = \230.16).

Due to the above, I grant the landlord's application and find he is entitled to a total monetary award of \$1,557.76, comprised of cost of cleaning, restoration, and repair for \$1,227.60, loss of rent revenue for April 1-8, 2019 of \$230.16, and the filing fee for \$100.00 paid for this application.

At the landlord's request, I direct him to retain the tenant's security deposit of \$437.50 and the pet damage deposit of \$337.50 in partial satisfaction of his monetary award of \$1,557.76.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$782.76.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are subject to recovery from the tenant.

Conclusion

The landlord's application for monetary compensation is granted, he has been authorized to retain the tenant's security deposit of \$437.50 and pet damage deposit of \$337.50 and he has been awarded a monetary order for the balance due, in the amount of \$782.76.

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: August 12, 2019

Residential Tenancy Branch