



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Page: 1

DECISION

Dispute Codes MNRL-S MNDCL-S FFL

Introduction

The landlords seek compensation pursuant to sections 26, 67, and 72 of the *Residential Tenancy Act* (the “Act”).

Attendance at Hearing and Service of Notice of Dispute Resolution Proceeding

Only the landlords attended the dispute resolution proceeding, which was conducted by teleconference on Tuesday, December 13, 2022 at 1:30 PM. The tenants did not attend the hearing, which ended at 1:46 PM.

The landlords testified that they served the *Notices of Dispute Resolution Proceeding* and evidence packages upon each tenant by way of Canada Post registered mail. This was done on April 23, 2022 and one package was marked as delivered while the other was returned as unclaimed. Based on this undisputed sworn evidence it is my finding that the tenants were served with the required documents necessary for them to participate in the dispute resolution proceedings, in compliance with the Act.

Issue

Are the landlords entitled to compensation?

Background and Evidence

The tenancy began August 15, 2021 and the tenancy agreement stated that the fixed-term tenancy was to end on August 31, 2022. However, the tenants on March 29, 2022 gave notice to end the tenancy early. The tenancy ended on April 6, 2022.

Monthly rent was \$2,100.00 and the tenants paid a \$1,050.00 security deposit and a \$1,050.00 pet damage deposit. These two deposits remain in trust with the landlords pending the outcome of their application.

The landlords seek \$6,652.91 (itemized in a *Monetary Order Worksheet* and the amounts for which were confirmed during the hearing) for the following:

1.	April 2022 rent	\$2,100.00
2.	Loss of income	4,200.00
3.	Water bill	150.15
4.	Garbage	152.76
5.	Upgraded large garbage bin	50.00
6.	Application filing fee	100.00

The landlords gave evidence that the tenants did not pay rent for April 2022. Further, there is a liquidated damages clause in the tenancy agreement requiring the tenants to pay \$4,200.00 in the event that the tenants ended the tenancy early. The tenants agreed in writing to this term.

The landlords also seek a small amount for an unpaid water bill which the tenants were supposed to have paid, and \$152.76 for an unpaid garbage collection bill that the tenants were also supposed to pay. Last, the landlords seek \$50 that the tenants did not pay, but were supposed to, for an upgraded larger garbage bin. Invoices and statements were submitted into evidence in support of these claims.

Analysis

1. Claim for Rent

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement unless the tenant has a right under the Act to deduct all or a portion of the rent.

The undisputed evidence before me leads me to conclude that the tenants did not pay rent on April 1, 2022. As such, the landlords are entitled to the amount claimed.

2. Claim for Loss of Income (Liquidated Damages)

The tenancy agreement included a liquidated damages term. The tenants agreed to this term which required them to pay liquidated damages in the amount of \$4,200 should they breach the tenancy agreement by ending the tenancy early. The tenants ended the tenancy early and therefore must pay the landlords the amount of liquidated damages of \$4,200.00.

3. Claim for Water Bill, Garbage and Upgraded Large Garbage Bin

The tenants were required to pay for utilities, which included water and garbage collection, and along with the garbage collection they requested a larger garbage bin.

These amounts remained unpaid at the end of the tenancy, and it is my finding that the landlords have proven on a balance of probabilities that they are entitled to the amounts claimed.

4. Claim for Application Filing Fee

Section 72 of the Act permits an arbitrator to order payment of a fee by one party to a dispute resolution proceeding to another party. Generally, when an applicant is successful in their application, the respondent is ordered to pay an amount equivalent to the applicant's filing fee.

In this dispute, as the landlords were successful in their application the tenants are ordered pay the landlords \$100.00.

Summary of Award, Retention of Deposits, and Monetary Order

The landlords are awarded a total of \$6,752.91. Pursuant to section 67 and 72(1) of the Act the tenants are ordered to pay this amount to the landlords.

Section 38(4)(b) of the Act permits me to authorize a landlord to retain a tenant's security deposit after the end of a tenancy. The landlords are thus authorized to retain the security and pet damage deposits totalling \$2,100.00 in partial satisfaction of the award.

The balance of the award (\$4,652.91) is granted by way of a monetary order. A copy of this monetary order is issued to the landlords, and the landlords must serve a copy of the monetary order upon each tenant.

If the tenants fail to pay this amount within 15 days, or within a longer timeframe at the landlords' discretion, then the landlords may file and enforce the monetary order in the Provincial Court of British Columbia (Small Claims Court).

Conclusion

The application is hereby granted.

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: December 13, 2022

Residential Tenancy Branch