



Dispute Resolution Services
Residential Tenancy Branch
Ministry of Housing

File Number: **310091424**
Order Dated: November 29, 2023

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between
0753629BC LTD

Applicant - **Landlord**

And
MARIANA RIVERA
GABRIEL BEVERIDO

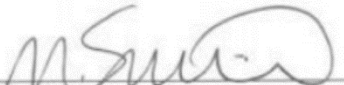
Respondents - **Tenants**

Regarding the rental unit located at:
103-1833 FRANCES ST, VANCOUVER, BC

Re: An application under sections 67 and 72 of the *Residential Tenancy Act*.

ORDER

I DO HEREBY ORDER, under sections 67 and 72 of the *Residential Tenancy Act*, that the Respondents, **Mariana Rivera, Gabriel Beverido**, pay to the Applicant, **0753629 BC Ltd**, the sum of **\$261.69**.



N. SMITH, Arbitrator
Residential Tenancy Branch

The contents of this decision, including any orders granted within the decision, can be verified online. Go to <https://tenancydispute.gov.bc.ca/PostedDecisions/> and enter the Decision ID: **AnonDec-122168**.



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File Number: **310091424**
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In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

0753629 BC LTD - (O.B.L.)

Applicant - **Landlord**

And

MARIANA RIVERA - (M.R.)

GABRIEL BEVERIDO - (G.B.)

Respondents - **Tenants**

Regarding the rental unit located at:

103-1833 FRANCES ST, VANCOUVER, BC

Date of Hearing: October 30, 2023, 1:30 PM, by conference call

Attending for the Landlord

- Remi Chretien, agent

Attending for the Tenants

- Mariana Rivera
- Gabriel Beverido

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DECISION

Introduction

This hearing dealt with the Landlord's application for Dispute Resolution under the *Residential Tenancy Act* (Act) for:

- a Monetary Order for unpaid rent under section 67 of the Act;
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act; and,
- authorization to recover the application filing fee from the tenant under section 72 of the Act.

Agent R.C. attended the hearing for the Landlord.

Tenant M.R., Tenant G.B. attended the hearing for the Tenants. The Tenants called into the hearing 12 minutes after the start of the hearing.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Tenants were deemed served with the Proceeding Package, in accordance with section 90(a) of the Act, on February 21, 2023, by registered mail in accordance with section 89(1)(c) of the Act, the fifth day after the registered mailing. The Landlord provided a copy of the Canada Post customer receipts containing the tracking numbers to confirm this service.

Service of Evidence

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenants in accordance with section 88 of the Act.

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Issues to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent?

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the Landlord entitled to retain all or a portion of the Tenants' security and pet damage deposits in partial satisfaction of the monetary award requested?

Is the Landlord entitled to recover 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.

Evidence was provided showing that this tenancy began on August 1, 2022, with a monthly rent of \$3,295.00, due on the first day of the month, with a security deposit in the amount of \$1,647.50 and a pet damage deposit in the amount of \$1,647.50. The Landlord still holds both deposits.

The Parties confirmed that the tenancy ended October 31, 2022.

The Tenants testified that they told the Landlord about the notice to end their tenancy by text message on September 27, 2022. On September 28, 2022, the Tenants testified that they sent an email providing notice to the Landlord in writing that they would be vacating their rental unit on October 31, 2022. They provided their forwarding address to the Landlord by this same email. The Tenants uploaded a copy of this email.

The Tenants argued that the Landlord never responded to their text message or their email. The Tenants said the Landlord told them he was out of town, but the Tenants stated they saw the Landlord riding his bike around the rental unit. On October 1, 2022, the Tenants stated that the Landlord said he never received any email from them. The Tenant used their hub spot to check and see if the Landlord had opened their email. The Landlord had opened the email three times.

The Landlord said that the Tenants just live next door to him, and they could have easily attached the notice on his door. The Landlord stated the Tenants did send him some

text messages about wanting to end their tenancy. He said he finally received it in person on October 1, 2022.

The Landlord uploaded form #RTB-47 – Tenant’s Notice of Forwarding Address for the Return of Security and/or Pet Damage Deposit. The form was signed on January 28, 2023, and sent by registered mail to the Landlord. The Landlord confirmed receipt on January 31, 2023.

The Landlord claims because the Tenants provided their notice to end their tenancy on October 1, 2022, he claims one month’s rent from the Tenants for the late notice.

The Landlord claims compensation to pay for repairs to the rental unit. The Landlord submitted receipts for paint totalling \$202.98, and spackle totalling \$12.23. The Landlord also claims his own labour costs for repairs and painting totalling \$294.00 (6hr X \$49.00/hr). The Landlord did not provide a receipt for his labour costs.

The Tenants stated they were agreeable to the paint and spackle charges, but asked where the Landlord’s receipt was for his labour costs.

The Tenants did a move-in condition inspection on August 1, 2022, and a move-out condition inspection on October 30, 2022 with the Landlord, and the Landlord submitted that copies of these reports were provided to the Tenants.

The Landlord did not have an outstanding monetary order against the Tenants at the end of the tenancy.

The Landlord submitted that the Tenants did agree in writing at the end of the tenancy that the Landlord could keep all of the security and pet damage deposits totalling \$3,295.00.

The Landlord applied to the Residential Tenancy Branch on February 12, 2023 to keep some or all of the Tenants’ security and pet damage deposits.

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.

Is the Landlord entitled to a Monetary Order for unpaid rent?

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

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*

The Tenants personally served the Landlord with a notice to end the tenancy on October 1, 2022 in accordance with section 88 of the Act. Under section 45(1)(b) of the Act, the tenant may give notice to end a periodic tenancy on a 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. Because the Tenants served their end of tenancy notice in October, the Landlord is entitled to a month's rent compensation. I find the Landlord is entitled to rent for the month of November 2022 and I grant the Landlord **\$3,295.00**.

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Section 35 of the Act establishes that, at the end of the tenancy, a landlord must inspect the condition of the rental unit with the tenant, the landlord must complete a condition inspection report with both the landlord and the tenant signing the condition report.

Section 32(3) of the Act states that a tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the Landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and

4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Landlord claims compensation to pay for repairs to painting in the rental unit. The Tenants agreed that this compensation is due to the Landlord.

The Tenants do not agree to the Landlord's labour costs as the Landlord has not provided a receipt. I accept this reasoning as it is the Landlord's onus to provide proof of the actual amount for the claimed loss.

Section 67 of the Act states that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

I grant the Landlord a total of **\$215.21** to satisfy the damage or loss experienced by the Landlord for repairing and painting the rental unit.

Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary award requested?

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it. As the forwarding address was provided on January 31, 2023, and the Landlord made their application on February 12, 2023, I find that the Landlord did make their application within 15 days of receiving the forwarding address.

Under section 72(2)(b) of the Act, I order that the Landlord is authorized to retain the security deposit held by the Landlord in partial satisfaction of the monetary award. In addition, 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's Monetary Award is calculated as follows:

Item	Amount
Unpaid rent	\$3,295.00
Painting	\$202.98
Spackle	\$12.23
Less security deposit	-\$1,647.50
Less pet damage deposit	-\$1,647.50
Less interest*	-\$53.52
Application filing fee	\$100.00
Total monetary award	\$261.69


*There is no interest owed on the deposits in 2022 as the amount of interest owed in that year was 0%. The amount of interest in 2023 was 1.95%. Interest was calculated using the Residential Tenancies Online Tools: Deposit Interest Calculator.

Conclusion

I grant the Landlord a Monetary Order in the amount of \$261.69, and the Tenants must be served with this Order as soon as possible. Should the Tenants 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: November 29, 2023



N. SMITH, Arbitrator
Residential Tenancy Branch