



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: MND, MNR, MNSD, FF

Introduction

This matter dealt with an application by the landlord for a monetary order for unpaid rent and damage to the rental unit. The landlord also seeks to retain all or part of the security deposit in satisfaction of any monetary order and an order to recover the filing fee for this application.

The landlord and the tenant appeared at the hearing and were afforded a full opportunity to present evidence. I advised both parties that I would consider their oral evidence as well as any written submissions that had been received prior to the hearing, in reaching my decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities, and if so in what amount?

Background and Evidence

The facts agreed to by both parties are as follows:

- the tenancy commenced on May 2, 2008 at a monthly rent of \$655.00
- the tenants paid a security deposit at the start of the tenancy in the amount of \$327.50, which the landlord still holds
- that the terms of the tenancy including numerous furnishings, dishes and bedding items
- that the tenants vacated the premises on or about August 28, 2008 with no notice to the landlord
- that the tenants did not pay the full rent for August and is still owing an amount of \$450.00
- that the tenants did not pay any rent for the month of September 2008
- that the tenant agrees that he is responsible for the repairs for a hole in the wall of the rental unit
- that the tenants did not return the keys to the unit
- that no joint move-out inspection had been completed

The landlord's evidence at the hearing is that after the tenants vacated, an inspection and inventory of the rental unit showed numerous items missing. A list of those items was included as evidence and a copy had been provided to the tenants. The landlord's claim is broke down as follows:

- suite cleaning \$ 237.50
- patching holes \$ 85.00
- carpet cleaning \$ 100.00
- area rugs \$35.00
- 4 keys not returned (lock change) \$100.00
- rental arrears \$1130.00 (August and September)
- carpet flea treatment \$ 45.00
- missing items \$472.00

The landlord's evidence is that the flea treatment was required as the tenants had a cat which violated the tenancy agreement.

The tenant gave evidence that during the tenancy, someone had been entering the rental unit and taking items and that he had reported this to the landlord two days prior to vacating. This included one incident where someone entered the rental unit while the tenant was in the bathroom. The tenant stated that prior to him occupying the unit, that another tenant had been given keys to use the shower in the vacant unit, and he suspected that someone still had a key. The tenant denies removing the missing items and states that he had his own household goods which were in storage, so he had no need to take the items. The tenant also denies responsibility for the rent for the month of September as he claims he vacated due to the lack of security and that some one was entering the rental unit.

The landlord countered that the keys had been retrieved from the tenant who had used the rental unit on a temporary basis and that there had been no further items missing since the tenant departed. The tenant countered that as the locks had been changed after he left, that a person with a previous key would no longer be able to enter.

Analysis

The landlord bears the onus to show that the tenant is responsible for the removal of the missing items. There is no record that the landlord complied with the requirements of the *Residential Tenancy Act* by attempting to schedule on at least two occasions, an inspection of the property. The landlord did note that she spoke to the tenant on one occasion but that they did not mutually conduct an inspection. That said, an inspection was carried out and a copy provided to the tenant.

I do not find that the landlord has met the burden of proof that the tenant removed the missing items as there is evidence of an intruder and that of possible other keys being in circulation. I dismiss the landlord's claim for the missing items.

I find that the tenant is responsible by admission for the missing key costs and the hole in the wall repairs. I also find that the tenant failed to leave the unit in a clean state and is responsible for the carpet cleaning, suite cleaning and flea treatment.

The landlord also bears the onus when claiming for loss of revenue due to a tenant vacating early, that they attempted to mitigate their loss by re-renting the property as soon as possible. There is no evidence at this hearing that an attempt to re-rent was done in order to reduce any loss of revenue for the month of September. I find that the landlord is entitled to recover the unpaid rent for August and for ½ of the month of September.

Conclusion

I find that the landlord has established a claim for a monetary order as follows:

Unpaid Rent August 2008	\$ 450.00
Loss of Revenue ½ month September 2008	\$ 327.50
Suite Cleaning	\$ 237.50
Wall Repairs	\$ 85.00
Carpet Cleaning	\$ 100.00
Key and Lock Replacement	\$ 100.00
Flea Treatment	\$ 45.00

Filing fee	\$ 50.00
Total	\$ 1395.00
Minus Security Deposit plus interest	-\$ 329.92
Total Balance	\$1065.08

I order that the landlord may retain the security deposit plus interest in the amount of \$329.92. I award the landlord a monetary order for the balance owing in the amount of \$1065.08. The order may be filed with an enforced as an order of the British Columbia Provincial Court.

Dated: October 27, 2008