



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 hearing dealt with the landlord's application for a monetary claim related to loss of rental income and damage to the rental unit. The landlord also seeks to retain the tenant's pet and security deposits in partial satisfaction of this claim.

The landlord contacted the tenant's next of kin in an attempt to contact him regarding these damages by letter on September 2, 2008. The landlord received a response dated September 9, 2008 from the tenant's relative, who confirmed that she was acting as the tenant's agent and that this address could be used as the tenant's forwarding address.

The landlord used this address to serve the tenant notice of this hearing and application by registered mail. I deem the tenant as having been served in accordance with section 89 of the *Act* and proceeded with the hearing in the tenant's absence.

Issues to be Determined:

Has the landlord established a monetary claim related to loss or damages sustained due to the tenant's breach of the tenancy agreement or *Act*? Is the landlord entitled to retain the tenant's pet and security deposits in partial satisfaction of this claim?

Background and Evidence:

This tenancy began on February 5, 2008 for the monthly rent of \$760.00. The tenancy was a fixed term lease for one year and included a clause for liquidated damages for the sum of \$380.00 if the tenant breached the lease. The tenant paid a security deposit of \$380.00 on January 14, 2008 and a pet deposit of \$380.00 on February 1, 2008. On July 25, 2008 the tenant was served with a Notice to End Tenancy for cause. The tenant did not dispute the notice and vacated the rental unit on approximately August 16th, 2008. The landlord stated that a move in condition inspection was completed on February 5, 2008 and a move out condition inspection was scheduled for August 18, 2008. However the tenant did not attend the scheduled inspection. The landlord submitted that she called the tenant at work to make further appointment and the tenant did not appear a second time.

The landlord is seeking the following damages due to the tenant's breach of the tenancy agreement including failure to pay rent and costs related to cleaning and damage to the rental unit contrary to section 37 of the *Act*.

Loss of half a month's rent for August 2008	\$380.00
Cleaning kitchen cupboards and stove fan (3 hours labour at \$10.00 per hour)	\$30.00
Cleaning of stove	\$30.00
Cleaning windows of rental unit	\$15.00
Cleaning of drapes pursuant to the tenancy agreement	\$30.00
Cleaning of bathroom and floors	\$45.00
Carpet cleaning pursuant to the tenancy agreement	\$65.00
Repair to carpet due to damage from pet	\$357.00
Repair and touch up painting to walls in rental unit	\$155.00
Repair to bi-fold door of closet door	\$80.00
Replacement of bathroom door	\$120.00
Liquidated damages pursuant to tenancy agreement	\$380.00
Recovery of filing fee for this application	\$50.00
Total	\$1,737.00

The landlord submitted a copy of the move in and move out condition inspection reports and photographic evidence in support of this claim.

Analysis:

In the absence of any evidence submitted by the tenant I am satisfied that the tenant was in breach of the tenancy agreement and the *Act*. I am satisfied that the tenant breached the fixed term lease, damaged the rental unit and failed to comply with section 37 of the *Act* requiring him to return the rental unit reasonably clean and undamaged.

I find however that the landlord's claim against the bi-fold closet door and the bathroom door must be adjusted to reflect normal depreciation. Therefore, I only grant the landlord reimbursement for 50% of the cost claimed. This adjusts the landlord's monetary claim to the sum of \$1,637.00.

From this sum I Order that the landlord may retain the tenant's pet and security deposits plus interest of \$769.78 in partial satisfaction of this claim.

Conclusion:

I grant the landlord a monetary Order for the remaining balance of **\$867.22**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated December 01, 2008.

Dispute Resolution Officer