



Dispute Resolution Services

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

Decision

Dispute Codes:

MND, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on October 25, 2008. The Landlord did not submit a receipt from Canada Post and he was unable to provide a tracking number for the registered mail. In the absence of evidence to the contrary, I accept his verbal testimony that the documents were sent by registered mail. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary order for compensation for damage or loss; to retain all or part of the security deposit; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord stated that this tenancy began on September 01, 2007. The Landlord stated that the tenant was required to vacate the rental unit at 1:00 p.m. on September 30, 2008, but she did not vacate the rental unit until October 01, 2008 at approximately

7:55 p.m. The Landlord stated that the Tenant was required to pay monthly rent of \$850.00 and that the Tenant paid a security deposit of \$450.00 on September 01, 2007.

The Landlord is seeking compensation for the following costs that were incurred when the Tenant did not vacate the rental unit prior to 1:00 on September 30, 2008:

- \$191.89 for a moving truck that he had to rent on October 01, 2008 to store personal items belonging to the new tenants who were prevented from moving into the rental unit due to the continued occupancy. A receipt for this expense was submitted as evidence.
- \$113.12 for one night of accommodation at the Days Inn for the new tenants, who were unable to move into the rental unit due to the continued occupancy. A receipt for this expense was submitted as evidence.
- \$27.95 for over-holding the rental unit for one day in October of 2008.

The Landlord is seeking compensation, in the amount of \$183.00, to remove garbage from the rental unit that was left behind by the Tenant. The Landlord submitted photographs that he stated shows the amount of debris left at the rental unit at the end of the tenancy. The Landlord submitted a copy of dumping receipt, in the amount of \$98.00. The remaining \$85.00 is compensation for his labour and gas to travel to the dump.

The Landlord is seeking compensation, in the amount of \$268.36, for two water bills. The Landlord submitted a copy of a bill that shows these expenses were incurred during the tenancy. The Landlord stated that he had a verbal agreement with the Tenant that the Tenants would pay the water bill.

The Landlord stated that he agreed to compensation the Tenant, in the amount of \$111.80, for being without a functioning hot water tank between September 27, 2008 and September 30, 2008. He indicated that he would like his monetary Order to be reduced by \$111.80.

Analysis

In the absence of evidence to the contrary, I find that the Tenant failed to vacate the rental unit prior to 1:00 on September 30, 2008. As the Tenant failed to vacate the rental unit as required by legislation, I find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the Act. In these circumstances, I find that the Landlord is entitled to \$191.89 in compensation for having to rent a truck to store personal items belonging to the new tenants; \$113.12 to provide accommodations for the new tenants who were prevented from moving into the rental unit at the beginning of their tenancy; and \$27.41 for occupying the rental unit for one

day in October of 2008, which was calculated by dividing the monthly rent by thirty-one days.

In the absence of evidence to the contrary, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the rental unit in a reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$183.00.

In the absence of evidence to the contrary, I find that the Tenant was required to pay the water bill; that she did not pay a water bill of \$268.36; and that the Landlord is entitled to compensation in the amount of \$268.36.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Tenant is entitled to retain the Tenant's security deposit, plus interest, in the amount of \$458.74, in partial satisfaction of his monetary claim.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$833.78, which is comprised on \$268.36 in unpaid utilities; \$183.00 in compensation for not cleaning the rental unit at the end of the tenancy; \$332.42 for compensation for not vacating the rental unit on time; and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of \$458.74, in partial satisfaction of the monetary claim. The Landlord's monetary claim will also be further reduced, at the request of the Landlord, by \$111.80 as compensation for the Tenant being without hot water for four days.

Based on these determinations I grant the Landlord a monetary Order for the amount \$263.24. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: December 15, 2008