



Dispute Resolution Services

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

Decision

Dispute Codes: MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application from the landlord for a monetary order as compensation for unpaid rent / loss of rental income, compensation for cleaning and repairs to damage in the unit, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord participated in the hearing and gave affirmed testimony.

There is a male tenant, “MB” and a female tenant, “CT.” Despite being served in person at his workplace with the application for dispute resolution and notice of hearing on January 20, 2009, MB did not appear. As the landlord does not know the whereabouts of CT, he was unable to personally serve her with the application for dispute resolution and notice of hearing package.

Issue to be Decided

- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on November 1, 2008. Rent in the amount of \$750.00 was payable in advance on the first day of each month, and a security deposit of \$350.00 was collected on November 6, 2008. A move-in condition inspection and report were completed on November 7, 2008.

The tenants paid no portion of the rent due on January 1, 2009 and on January 8, 2009, CT verbally informed the landlord of their intention to vacate the unit. Subsequently, the

tenants vacated the unit on or about January 10, 2009. Despite an understanding that a move-out condition inspection and report would be completed on January 10, 2009, the tenants departed without participation in that process and failed to inform the landlord of a forwarding address.

The landlord seeks a monetary order in compensation for unpaid rent for January 2009, loss of rental income for February 2009, compensation for a full refill of the furnace oil tank, compensation for miscellaneous remedial work required in the unit including but not limited to installing three new deadbolts / keys, replacement of vinyl blinds, carpet cleaning, painting, a variety of minor repairs and recovery of the \$50.00 filing fee for this application.

Analysis

Section 44 of the Act speaks to **How a tenancy ends**, in part, as follows:

44(1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

(i) section 45 *[tenant's notice]*

Section 45(1) of the Act addresses **Tenant's notice**, as follows:

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 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.

Further, section 45(4) of the Act provides:

45(4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

Finally, section 52 of the Act addresses **Form and content of notice to end tenancy**:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45(1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The full text of the relevant legislation, Residential Tenancy Policy Guidelines, in addition to Fact Sheets, forms and other information related to the landlord – tenant relationship can be accessed via the website:

www.rto.gov.bc.ca/

Based on the documentary evidence and undisputed testimony of the landlord, I find that the landlord has established a claim of \$3,078.10. This is comprised of unpaid rent of \$750.00 for January 2009, loss of rental income of \$750.00 for February 2009, compensation of \$700.00 for a full refill of the furnace oil tank, compensation of \$828.10 combined for costs associated with installation of three new deadbolts / keys, replacement of vinyl blinds, carpet cleaning, painting, miscellaneous minor repairs, and recovery of the \$50.00 filing fee for this application.

The landlord's application for costs associated with carpet replacement and replacement of the blue plastic recycling box are dismissed as no expenses in this regard have presently been incurred.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the landlord's claim for costs related to a long distance telephone call, service of evidence on the tenant, and other costs arising from postage, use of fax and so forth, are dismissed.

I order that the landlord retain the security deposit of \$375.00 plus interest of \$00.86, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$2,702.24 (\$3,078.10 - \$375.86)

Residential Tenancy Policy Guideline # 12 speaks to **Service Provisions** and provides (with particular exceptions) that an application for dispute resolution must be served on a tenant by a landlord in one of three ways, as follows:

- Where a landlord is personally serving a tenant, the landlord must serve a document by leaving a copy with the tenant;
- Where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant;
- An Arbitrator's Order Regarding Service

(Refer to sections 10 & 11 in Residential Tenancy Policy Guideline # 12).

As the landlord was unable to serve CT with the application for dispute resolution and notice of hearing in compliance with the above provisions, I dismiss his application with leave to reapply for a monetary order against CT.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the Act for **\$2,702.24**.

This order may be served on the tenant, MB, filed in the Small Claims Court and enforced as an order of that Court.

DATE: May 5, 2009

Dispute Resolution Officer