



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent and utilities, for compensation for loss of rental income and damages to the rental unit and to recover the filing fee for this proceeding. The Landlord also applied to keep the Tenant's security deposit.

Issues(s) to be Decided

1. Are there arrears of rent and utilities and if so, how much?
2. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?
3. Is the Landlord entitled to compensation for damages to the rental unit and if so, how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This fixed term tenancy started on July 1, 2008 and was to expire on June 30, 2009, however it ended on March 31, 2009 when the Tenant moved out. Rent was \$950.00 per month plus utilities. The Tenant paid a security deposit of \$475.00 at the beginning of the tenancy.

The Tenant gave the Landlord written notice on March 2, 2009 that she was ending the tenancy on March 31, 2009. The Landlord said he tried to re-rent the rental unit however he could not re-rent it until May 1, 2009 and lost rental income for April 2009. The Landlord also claimed that the Tenant has arrears of rent of \$200.00 for March 2009. The Landlord abandoned his claim for unpaid utilities as he claimed the Tenant had transferred that account into her name at the end of the tenancy. The Landlord also sought compensation of \$150.00 to replace mirrors he said the Tenant broke.

The Tenant admitted that she had rent arrears for March in the amount of \$200.00 and did not take issue with the Landlord's claim for a loss of rental income as she agreed that the Landlord tried hard to re-rent the rental unit. However, the Tenant claimed that a mirror on the back of the bathroom door was old and chipped at the edges and fell out of its clips because they were loose. The Tenant said she tried to tighten the clips herself and argued that this was reasonable wear and tear. The Tenant also argued that she removed an old medicine cabinet with a mirror at the beginning of the tenancy

and the Landlord told her not to worry about replacing it. The Landlord denied this and said that he wanted to replace it but did not want the Tenant replacing it without his input as to style and cost.

Analysis

I find that there are arrears of rent for March 2009 in the amount of \$200.00 and award the Landlord that amount.

Section 45(2) of the Act says that a tenant of a fixed term tenancy cannot end the tenancy earlier than the date set out in the tenancy agreement as the last day of the tenancy. If a tenant ends a tenancy earlier, they may be liable to compensate the landlord for a loss of rental income that he incurs as a result. Section 7(2) of the Act states that a party who suffers damages must do whatever is reasonable to minimize their losses. This means that a landlord must try to re-rent a rental unit as soon as possible to minimize a loss of rental income. I find that the Landlord mitigated his damages and is entitled to a loss of rental income for April 2009 in the amount of \$950.00.

Section 32 of the Act says that a Tenant is responsible for repairing damages caused by her act or neglect but is not responsible for reasonable wear and tear. RTB Policy Guideline #1 defines wear and tear as “natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.” Even if I was to find that the Tenant was responsible for replacing the mirror on the door and the medicine cabinet, I find that there is insufficient evidence of the value of those items and as a result, this part of the Landlord’s claim is dismissed. As the Landlord has been successful in this matter, he is entitled to recover the \$50.00 filing fee for this proceeding.

I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant’s security deposit plus accrued interest in partial payment of the damage award. The Landlord will receive a monetary order for the balance owing as follows:

Unpaid rent:	\$200.00
Loss of rental income:	\$950.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$1,200.00
Less: Security deposit:	(\$475.00)
Accrued interest:	<u>(\$10.77)</u>
Balance owing:	\$714.23



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Conclusion

A monetary order in the amount of **\$714.23** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) 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 *Residential Tenancy Act*.

Dated: July 13, 2009.

Dispute Resolution Officer