

DECISION

Dispute Codes: MNDC, MNSD and FF

Introduction

This application was brought by landlord seeking authorization to retain a portion of the tenant's security and pet damage deposits in set off against losses incurred as a result of the tenant giving late notice to end the tenancy. The landlord also sought to recover the filing fee for this proceeding.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to authorization to retain the amounts claimed from the tenant's security and pet damage deposits and recovery of the filing fee from the tenant.

Background and Evidence

This tenancy began on July 1, 2008 under a fixed term rental agreement set to end on June 30, 2009. The rental agreement indicates it was to become a month to month tenancy at the end of the fixed term "unless the tenant gives written notice to end the tenancy at least one clear month before the end of the term."

Monthly rent was \$1,250 and the landlord holds a security deposit of \$625 paid on June 27, 2008 and a pet damage deposit of \$600 paid on July 18, 2008.

During the hearing, the landlord's agent gave evidence that, in spite of her having reviewed the procedure for ending the tenancy some two months prior, the tenant had given verbal notice to the strata manager of the rental building, who relayed it to her on June 4, 2009. By email of June 4, 2009, she advised the tenant of the need to provide one month written notice and the tenant replied after business hours on June 5, 2009 confirming his intention to move at the end of June.

She stated that the tenant had agreed to the withholding from the security deposit of \$105 for general cleaning and \$84 for carpet cleaning.

The landlord was able to find a new tenant for July 15, 2009 at \$1,175 per month, but seeks to recover \$587.50 for loss of rent for the first two weeks of July.

Accordingly, the landlord added \$8.93 interest to the deposits, deducted the agreed to and contested amounts and returned \$457.43 of the deposits.

Analysis

Both section 45 of the *Act* and the rental agreement provide that the tenant must give at least one full month's written notice to end the tenancy and section 52 of the *Act* requires that such notice be signed. Section 7 of the *Act* provides that either party must compensate the other for any loss caused by their non-compliance with the *Act*.

I find that the landlord is entitled to retain the two weeks loss of rent of \$587.50 from the deposits. As the landlord's application has shown merit, I further find that the landlord is entitled to recover the filing fee for this proceeding for a final accounting as follows:

Amount credited to landlord		
Amount already returned to tenant	\$ 457.43	
Carpet cleaning as agreed by tenant	105.00	
General cleaning as agreed by tenant	84.00	
Two weeks loss of rent awarded at hearing	587.50	
Filing fee	<u>50.00</u>	
	\$1,283.93	\$1,283.93
Tenant's credits		
Security deposit	\$ 625.00	
Pet damage deposit	600.00	
Interest on deposits	<u>8.93</u>	
Sub total	\$1,233.93	- 1,233.93
TOTAL amount owing to landlord		\$ 50.00

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$50.00 for service on the tenant.