



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD

Introduction

This matter dealt with an application by the Landlord for compensation for damage or loss under the Act or tenancy agreement and to keep part of the Tenants' security deposit in payment thereof.

The Landlord said she served the Tenants by registered mail on August 7, 2009 with a copy of the Application and Notice of Hearing. The Landlord provided only one tracking number for the first named Tenant and according to the Canada Post online tracking system, he received the hearing package on August 10, 2009. I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence.

The Landlord also confirmed that the first Tenant's surname was spelled incorrectly on the application and as a result, the application is amended to correct the misspelling.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for damages and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This month to month tenancy started on March 1, 2007 and ended on August 1, 2009 when the first named Tenant moved out. Rent was \$1,040.00 per month payable in advance on the 1st day of each month. The Tenants paid a security deposit of \$495.00 at the beginning of the tenancy.

The Landlord claimed that the Tenants were supposed to move out at 12 noon on the last day of the month pursuant to a term of the tenancy agreement to that effect but did not move out until 9:00 am the following day. The Landlord admitted that a new tenant moved in later that day but thought that they were not required to pay rent for that day.

The Landlord also claimed that her handyman was supposed to go into the rental unit on July 31, 2009 after the Tenants vacated to re-paint the rental unit but ended up waiting 2 hours. Consequently, the Landlord sought to recover 2 hours of wages for the handyman. The Landlord further claimed that the seams of the drapes had come

undone and as a result, she sought to recover the cost of repairing them from the Tenants.

Analysis

Section 37(1) of the Act says that “unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 pm on the day the tenancy ends.” I find that under the tenancy agreement, the tenancy was supposed to end on July 31, 2009 at 12:00 noon. However, the Landlord could not say with certainty as to whether the new tenants were charged rent for August 1, 2009 or not. In the absence of any reliable evidence that the Landlord lost rental income for August 1, 2009, her application for compensation for one day of rent is dismissed.

I also find that there is no evidence that the Landlord incurred an expense for having her handyman wait 2 hours on the rental property on July 31, 2009 because the Tenants did not vacate on time. In particular, the Landlord claimed that the handyman kept time records but she did not provide them as evidence at the hearing. Furthermore, the written statement of the building manager provided by the Landlord indicates that the handyman was on the rental property earlier that day. Consequently, in the absence of any evidence that the handyman (who is apparently an employee) was unable to do anything else for the Landlord on the rental property on July 31, 2009 between the hours of 12:00 noon and 2:00 pm, that part of the Landlord’s claim is dismissed.

Section 37 of the Act says that at the end of a tenancy, the Tenant must leave the rental unit clean and undamaged except for reasonable wear and tear. RTB Policy Guideline #1 defines “reasonable 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.”

In support of her claim for expenses to repair the drapes in one of the bedrooms of the rental unit, the Landlord relied on a condition inspection report. The Landlord argued that the drapes were in good condition at the beginning of the tenancy but could not say how old the drapes were. It is clear from the condition inspection report that (aside from the alleged drape damage) the Tenant left the rental unit in good condition. As a result, I cannot conclude that the seam of the drapes needed to be repaired due to some act or neglect of the Tenants as opposed to reasonable wear and tear. Furthermore, the Landlord provided no evidence such as a receipt in support of this amount. Consequently this part of the Landlord’s claim is also dismissed.

I order the Landlord pursuant to s. 38 of the Act to return the Tenants’ security deposit in full with accrued interest of \$14.03.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

The Landlord's application is dismissed. A monetary order in the amount of **\$509.03** has been issued to the Tenants and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, 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: November 25, 2009.

Dispute Resolution Officer