

Decision

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

Introduction

This hearing dealt with an application by the landlord for a monetary order as compensation for unpaid rent, compensation for damage to the unit, compensation for damage or loss under the Act, regulation or tenancy agreement, retention of the security deposit, and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. Despite the landlord's in-person service on the tenant of the application for dispute resolution and notice of hearing, the tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

There is no written residential tenancy agreement in evidence for this month-to-month tenancy which began in late November 2008. Rent in the amount of \$975.00 was payable on the 31st day of each month, and a security deposit of \$243.75 was collected from this tenant at the outset of tenancy. While the parties did a walk-through of the unit at the start of tenancy, a move-in condition inspection report was not completed.

As a result of the tenant's inability to pay all rent due in November 2009, with the landlord's assistance the tenant vacated the unit and relocated on November 27, 2009. Rent for November 2009 remains overdue in the amount of \$475.00. Thereafter, the landlord undertook to clean the unit and make miscellaneous repairs. Further, as the tenant only returned 1 of 5 keys, the landlord replaced the unit locks. There is no evidence of a move-out condition inspection and report, and the landlord submitted photographs of the unit in support of his claim for compensation.

After completing the necessary cleaning and repairs, the landlord claimed he re-rented the unit effective sometime in January 2010.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

The attention of the parties is drawn to the following particular sections of the Act:

Section 23: Condition inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

Further, attention is drawn to Part 3 of the Regulation which addresses **Condition Inspections** (sections 14, 15, 16, 17, 18, 19, 20 & 21).

Section 32 of the Act speaks to **Landlord and tenant obligations to repair and maintain**, and provides as follows:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1)(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Based on the documentary evidence (including photos) and the undisputed testimony of the landlord, I find that the tenant vacated the unit on November 27, 2009, and that \$475.00 remains overdue for November's rent.

While the landlord seeks compensation for loss of rental income for December 2009, and states that a new renter was not found before January 1, 2010, there is no evidence of efforts made by the landlord to mitigate his loss. Accordingly, while I am satisfied that cleaning and repairs were required in the unit after the tenancy ended, I find the landlord's entitlement to loss of rental income is limited to \$220.16, or one week's rent. This amount is calculated as follows:

$\$975.00 \text{ (monthly rent)} \div 31 \text{ (number of days in December)} = \$31.45 \text{ (daily rent)}$

$\$31.45 \text{ (daily rent)} \times 7 \text{ (number of days in a week)} = \220.16

Further, I find that as all unit keys were not returned by the tenant, the landlord incurred cost for replacing the unit locks / keys in the amount of \$32.47.

I also find that the landlord undertook to clean the unit after the tenancy ended, and rented the necessary equipment at a cost of \$61.58.

I further find that the landlord incurred cost of \$635.55 for repair of the kitchen counter, and \$212.87 for paint and related supplies, both of which are supported by receipts (total: \$848.42). However, in the absence of comparative move-in and move-out condition inspection reports, and in consideration of the effects of normal wear and tear, I find the landlord's entitlement is limited to \$424.21, which is half the amount claimed.

Additionally, I find the landlord incurred miscellaneous costs for replacement of light bulbs and closet door hardware in the amount of \$11.57.

I also find that the landlord has established entitlement to 1 + 1/2 day's labour in the amount of \$300.00, calculated on the basis of 12 hours at the rate of \$25.00 per hour.

As the landlord has succeeded in his claim, I find he is entitled to recover the \$50.00 filing fee.

In the absence of receipts and / or a clear accounting of other costs that may have been incurred, all other aspects of the landlord's claim are hereby dismissed.

In summary, I find that the landlord has established a total claim of \$1,574.99, as set out above. I order the landlord to retain the security deposit of \$243.75 plus interest of \$00.32, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,330.92 (\$1,574.99 - \$244.07).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,330.92**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 26, 2010

Dispute Resolution Officer