

DECISION

Dispute Codes MNR, MNDC, MNSD

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent, for compensation for damage or loss under the Act or tenancy agreement and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said he served the Tenant in person on November 25, 2009 with the Application and Notice of Hearing. Based on the evidence of the Landlord, I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to compensation and if so, how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on April 5, 2008 and ended on August 24, 2009 when the Tenant moved out. Rent was \$650.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$325.00 on March 16, 2008.

The Landlord said the Tenant's rent cheque for August 2009 was returned for non-sufficient funds and as a result, on August 14, 2009 he was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlord said that when the Tenant moved out, he left some furniture on the rental property and as a result, the Landlord incurred expenses to dispose of it. The Landlord also said the Tenant left the rental unit unclean and did not return his mailbox key and as a result, the Landlord incurred expenses to clean the rental unit and to change the mailbox lock.

Analysis

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Under section 45 of the Act, a Tenant of a month-to-month tenancy must give one clear months notice. Given that the Tenant was served with the 10 Day Notice on August 14, 2009, the earliest he could have ended the tenancy (had he given written notice that day) would have been September 30, 2009. As a result, I find that the Landlord is

entitled to recover unpaid rent for the period August 1 – 24, 2009 and a loss of rental income for August 25 – 31, 2009 in the total amount of \$650.00.

I also find pursuant to s. 7 of the Regulations to the Act that the Landlord is entitled to recover a late payment fee of \$25.00 as provided for in clause 10 of the Parties' tenancy agreement.

Section 37 of the Act states that at the end of a tenancy, the Tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear. In the absence of any evidence from the Tenant to the contrary, I find that the Tenant abandoned furniture on the rental property and did not leave the rental unit reasonably clean at the end of the tenancy. Consequently, I find that the Landlord is entitled to recover cleaning expenses of \$120.00 and furniture removal expenses of \$105.00.

In the absence of any evidence from the Tenant to the contrary, I find that the Tenant did not return his mail box key at the end of the tenancy and as a result, Landlord is entitled to recover \$10.07 to replace the mailbox lock. I also find pursuant to s. 72 of the Act that the Landlord 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 and accrued interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

Rent/Loss of rent:	\$650.00
Late fee:	\$25.00
General cleaning:	\$120.00
Furniture removal:	\$105.00
Lock replacement:	\$10.05
Filing fee:	<u>\$50.00</u>
Subtotal:	\$960.05
Less: Security deposit:	(\$325.00)
Accrued interest:	<u>(\$3.88)</u>
Balance Owing:	\$631.17

Conclusion

A Monetary Order in the amount of \$631.17 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: March 29, 2010.

Dispute Resolution Officer