

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for compensation for damages to the rental unit, for damage or loss under the Act or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant by registered mail with a copy of the Application and Notice of Hearing (the "hearing package") to the rental unit address where the Tenant currently resides on February 8, 2010. According to the Canada Post online tracking system, a notification card was left for the Tenant on February 9, 2010, however the Tenant did not pick up the hearing package. Section 90 of the Act deems a document served in this manner to have been received on the 5th day after it is mailed. Consequently, I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in her absence.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation and if so, how much?

Background and Evidence

This tenancy started on July 1, 2009. On September 18, 2009, the toilet in the rental unit overflowed and leaked into the suite below it. The Landlord said the toilet overflowed because the Tenant disposed of plastic feminine hygiene products in the toilet which then became trapped. The Landlord said the Tenant acknowledged responsibility for the damages and agreed to pay the costs associated with the flooding. The Landlord provided a copy of written statement dated December 28, 2009 and signed by the Tenant in which she agreed to pay the amount of \$2,116.78 by way of 4 monthly instalments of \$500.00 commencing February 1, 2010 with the balance of \$116.78 to be paid no later than June 1, 2010. The Landlord said the Tenant has not made any payments to date.

Analysis

Section 32 of the Act says that a Tenant is responsible for repairing (or paying to repair) any damage caused by her act or neglect but is not responsible 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."

I find that the toilet overflowed due to the neglect of the Tenant and as a result, I find that she is responsible for the cost to repair the damages caused by the flooding. The Landlord provided an invoice from the Strata management company for the rental property for the cost of a restoration company to clean and inspect the 2 suites immediately below the rental unit and for the cost of an electrician to check the wiring. The Landlord said he also incurred an additional amount to have a plumber fix the toilet.

In the absence of any evidence from the Tenant to the contrary, I find that the Landlord is entitled to recover expenses of \$2,116.78 plus the \$50.00 filing fee for this proceeding.

Conclusion

A monetary order in the amount of **\$2,166.78** 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: May 10, 2010.

Dispute Resolution Officer