

DECISION

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

Introduction

This application was brought by the landlord seeking a Monetary Order for unpaid rent, loss of rent, damage to the rental unit, damage or loss under the legislation or rental agreement, and recovery of the filing fee for this proceeding. The tenants have given the landlords written consent to retain the security and pet damage deposits in set off against unpaid rent.

As the landlords had been unable to locate the tenants, they made application for substitute service by way of one of the tenant's parents at his place of business and approval for such service was granted by a decision issued on May 3, 2010.

Despite having been so served with the Notice of Hearing served in person on May 28, 2010 to the designated substitute, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be Decided

This application requires a decision on whether the landlords are entitled to a Monetary Order for the claims presented based on whether the damage or losses are proven, whether they are attributable to the tenants and whether the amounts claimed are fair and substantiated.

Background and Evidence and Analysis

This tenancy began on September 1, 2009 under a fixed term rental agreement set to end on August 31, 2010. Rent was \$850 per month and the landlords held a security deposit of \$425 paid on or about September 1, 2009 and a pet damage deposit of \$80 paid by four \$20 instalments.

During the hearing, the landlords submitted into evidence a copy of a letter from the tenants dated April 12, 2010 giving notice that they would be vacating the rental unit on April 15, 2010, three days later. The tenants had not paid the rent for April and left the rental unit in very poor condition as illustrated by photographic evidence submitted by the landlords.

Consequently, the landlords presented the following claims on which I find as follows:

Unpaid rent - \$850. As the tenants did not pay the rent for April 2010, a month in which they occupied the rental unit for two weeks before leaving with insufficient notice, this claim is allowed in full.

Loss of rent - \$850. The landlords submitted copies of Kijiji internet ads beginning on April 12, 2010 and daily newspaper ads (receipt provided) beginning April 22, 2010, but were unable to find new tenants for May 2010. I find that the landlords have met their obligation under section 7(b) of the *Act* to do whatever is reasonable to minimize their losses by finding new tenants. Therefore, this claim is allowed in full.

Replace ruined toilet - \$180. The landlords gave evidence that once during the tenancy and at the end of the tenancy the toilet was plugged solid and could not be restored using standard methods. The landlords obtained a used replacement and make this claim for labour and materials. It is allowed in full.

Replace ruined sink - \$205. The landlords stated that, contrary to the rental agreement, the tenants had smoked in the rental unit, and had butted cigarettes in the

acrylic bathroom sink necessitating its replacement. This claim, made up of \$80 labour and \$125 for supplies, is allowed in full.

General Cleaning - \$230. On the basis of photographic evidence, I find that this claim is warranted and it is allowed in full.

Refuse removal - \$80. This claim is substantiated by photographic evidence and receipt for dump fees and it is allowed in full.

Repainting of suite - \$520. The landlords gave evidence that, because the tenants had smoked in the rental unit contrary to their written agreement, the odour of stale smoke necessitated the early repainting of the unit. The landlords claim eight hours labour at \$40 per hour plus \$200 for supplies. The landlords stated that the unit had been painted one and one-half years prior to the tenancy. I find that the hourly rate of \$40 is somewhat high and reduce the award on this claim to \$25 per hour. In addition, standard depreciation tables place the useful life of interior paint in a rental unit at four years. Therefore, I reduce the claim by $1.5/4 = 37.5$ percent. Therefore, with eight hours labour at \$25 per hour = \$200 plus \$200 for supplies, I find that this claim should be reduced to \$400 – \$150 (37.5%) for a total of \$250.

Replace bathroom fan - \$320. The landlords make claim for \$120 supplies and \$200 labour for replacement of the bathroom fan which did not work at the end of the tenancy and which bore cigarette burns. They stated that it was approximately three years old. Taking into account some depreciation, some doubt as to whether smoke would have hastened the failure of the fan, and a somewhat high claim for labour, I reduce the award on this claim to \$100.

Microwave oven missing - \$100. The landlords stated that the microwave oven in the rental unit was missing at the end of the tenancy. They stated that it was a lower end

unit and the lowest replacement cost for a similar unit they could find was approximately \$100, although they have not yet had the funds to replace it. I find this claim to be reasonable and it is allowed.

Replace blinds - \$70. The landlords claim \$40 for two sets of blinds and \$30 for labour to replace them as a result of damage apparently done by the tenants' cat. On the basis of photographic evidence and receipt, this claim is allowed in full.

Newspaper advertising - \$82. The landlords claim this amount for two weeks advertising, fractionally less than the receipts submitted. The claim is allowed as made.

Bedroom carpets and photography - ??. The landlords stated that they had to discard two carpets after attempts to restore them with cleaning failed. As no amount was attached to this loss on evidence submitted to the tenants, I make no award on it. As to the claim for photography costs, applicants may not normally be awarded costs for evidence preparation.

Filing fee - \$50. Having found substantial merit in the landlords' application, I find that they are entitled to recover the filing fee for this proceeding from the tenants.

Thus, including consideration of the tenants' security deposit and pet damage deposit surrendered by the tenants, I find that the tenants owe to the landlords an amount calculated as follows:

Unpaid rent for April 2010	\$850.00
Loss of rent for May 2010	850.00

Replace toilet	180.00
Replace sink	205.00
General cleaning	230.00
Refuse removal	80.00
Repaint suite	250.00
Replace bathroom fan	100.00
Replace missing microwave oven	100.00
Replace blinds	70.00
Newspaper advertising	82.00
Filing fee	50.00
Sub total	\$3,047.00
Less retained security deposit (no interest due)	- 425.00
Less pet damage deposit	- 80.00
TOTAL	\$2,542.00

Conclusion

In addition to authorization to retain the security and pet damage deposits in set off, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$2,542.00 for service on the tenants.

June 16, 2010