

## **DECISION**

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

### **Introduction**

This application was brought by the landlord seeking a Monetary Order for unpaid rent, damage or loss under the legislation or rental agreement, damage to the rental unit, recovery of the filing for this proceeding and authorization to retain the security and pet damage deposits in set off against any balance found owing.

Despite having been served with the Notice of Hearing sent by registered mail on April 16, 2010, and despite having been reminded of the hearing during a telephone conversation with the landlord the day before the hearing, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### **Issues to be Decided**

This application requires a decision on whether the landlord is entitled to a Monetary Order for the claims submitted, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off. In considering the landlord's claim with respect for damages, the decision must take into account whether damages are proven, whether they are attributable to the tenant, whether amounts claimed are proven and reasonable and whether the landlord has acted reasonably to minimize the losses.

## **Background, Evidence and Analysis**

This tenancy began on May 11, 2008 under a 12-month fixed term agreement. Rent was \$975 per month and the landlord holds a security deposit of \$487.50 paid on May 11, 2008.

The rental agreement originally named one male and one female tenant. However, when the fixed term agreement was renewed from October 1, 2009 to September 30, 2010, the male tenant became the sole signatory at his request, although the female tenant remained in the rental unit.

During the hearing, the landlord gave evidence that she learned that the tenants had abandoned the rental unit on or about April 1, 2010 and that they had given no notice to end the tenancy.

On attending the rental unit, the landlord found a devastating degree of refuse, dirt and damage and submitted approximately 100 photographs and paid invoices in evidence.

The landlord claims and my findings on each are as follows:

**Unpaid rent and loss of rent - \$975.** While this was a fixed term agreement breached by the tenants, and while the rental unit remained unrented at the time of hearing, the landlord initially claimed only one month unpaid rent. During the hearing, in view of the substantial claim for damages and in view of the tenant's acknowledgement of responsibility, the landlord waived her right to claim unpaid rent and loss of rent.

**General repairs and materials \$12,878.58.** During the hearing, the landlord gave evidence of extraordinary damage to the rental unit including:

- Hangers from the ceiling of such weight that they pulled the drywall off the ceiling requiring replacement;
- Damage to the bathroom wall tiles that permitted shower water to run down the inside of the wall causing sufficient damage that even the studded wall needed replacement;
- Cracks in the bathtub that required its replacement;
- Cracks in the toilet that required its replacement.
- Five doors including one closet door, four of which had been kicked in and even the door frames required replacement;
- Missing light fixtures;
- Holes in the walls and ceilings throughout.

While the damage was so extensive as to make a determination as to whether any of it might be attributable to normal wear and tear, the landlord agreed to reduce this part of the claim by 10 percent to account for wear and depreciation. The landlord's claim is thus reduced to \$11,590.72 and, on the basis of photographic evidence and the paid invoices, I find that landlord is entitled to an award for that amount.

**Replacement of hardwood floors - \$2,197.12.** While the move-in condition inspection report noted that the flooring was older, replacement of a large section was necessitated by numerous deep burns that made refinishing implausible. I find that the landlord is entitled to compensation for this damage in full.

**Refuse removal and cleanup - \$525.** The landlord submits a paid invoice on this claim, and on the basis of photographic evidence, I find the billing to be patently fair for the amount of work required. This claim is allowed in full.

**Postage - \$14.36.** Evidence gathering and hearing preparation expenditures are considered to be a cost of doing business and cannot be reimbursed. This claim is dismissed.

**City Utilities Department - \$141.11.** As a result of the tenant's failure to pay utilities, this amount was paid by the landlord to avoid addition of it to her tax bill.

**Filing fee - \$100.** Having found full merit in the landlord's application, I find that she is entitled to recover the filing fee for this proceeding from the tenant.

**Security Deposit – (\$487.50 + \$4.70 = \$492.20).** As authorized by section 72 of the *Act*, I hereby authorize that the landlord may retain the security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

General repairs	\$11,590.72
Replacement of hardwood flooring	2,197.12
Refuse removal	525.00
Utilities	141.11
Filing fee	<u>100.00</u>
Sub total	\$14,553.95
Less retained security deposit	- 487.50
Less interest (May 11, 2008 to date)	- <u>4.70</u>
<b>TOTAL</b>	<b>\$14,061.37</b>

**Conclusion.**

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$14,061.37 for service on the tenant.

August 26, 2010

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