



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for damage to the rental unit, unpaid rent, to retain the security deposit, compensation for damage or loss and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord's witness provided affirmed testimony that on May 7, 2010 he was present with another individual when they personally served the tenants copies of the Application for Dispute Resolution and Notice of Hearing at the tenant's place of work, a golf course. The witness had investigated the whereabouts of the tenant and the tenant had been previously pointed out by other staff. At the time of service the tenant did identify himself. Service occurred at 2:50 p.m., with a witness present, who signed a certificate of service which was submitted as evidence.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

Preliminary Matter

The Application was amended to remove the landlord's previous agent's name.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for damage to the unit, unpaid rent and compensation for damage or loss in the sum of \$2,755.00?

Is the landlord entitled to retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

A copy of a tenancy agreement signed by the tenant and a female tenant on April 27, 2009, was submitted as evidence. Rent was \$725.00 per month due on the first day of each month. This was a fixed term tenancy that was to end on April 30, 2010. The

agreement was silent as to whether the tenant must move out or if the tenancy converted to a month-to-month tenancy at the end of the term. A deposit in the sum of \$362.50 was paid on April 27, 2009.

A move-in condition inspection report completed on May 1, 2009, with the landlord's agent at the time and the female tenant, who was not named as a respondent, indicated that the unit was in good condition with no damage. The landlord read from this document, which was not submitted as evidence.

On April 15, 2010, the tenant told the landlord he was moving out on April 30, 2010. The tenant did not pay April's rent owed as his cheque was returned as NSF; a copy of the bank notice was supplied as evidence. The landlord is also claiming loss of rent revenue for May, 2010, in the sum of \$725.00 as the cleaning and painting that was required resulted in a loss of revenue.

The tenant had been asked to attend at the unit on April 30, 2010, in order to complete a move-out condition inspection, but did not attend. Upon inspection of the unit after the tenant had moved it was found to be dirty, requiring extensive cleaning, from walls, stove, fridge, cupboards, oven, microwave, shampooing the carpet, bathroom and all floors.

The landlord had paid an agent to complete the cleaning by giving her rent abatement. This agent submitted an invoice for work she completed to the unit after the tenant moved out, which totaled 24.25 hours at \$25.00 per hour, in the sum of \$606.25.

The landlord has claimed \$800.00 for painting costs and \$62.35 for supplies; no receipts were provided. The landlord did not know when the unit had last been painted.

The landlord submitted copies of emails between the past agent and the tenant, dated May 5, 2010, in which the tenant indicated that he would not pay his rent.

Analysis

Based on the testimony and evidence before me, in the absence of the tenant who was served with Notice of this hearing, I find that the landlord is entitled to compensation in the sum of \$725.00 for unpaid April rent. This decision is supported by verification of the NSF cheque written by the tenant.

Section 6(3) of the Act, requires terms of a tenancy agreement to clearly communicate the rights and obligations. As the tenancy agreement was silent on the requirement of the parties on April 30, 2010, and the agreement indicated that the tenancy would end on that date, I find that the tenant was not required to give written Notice ending the tenancy and that he moved out based upon the end date contained in the tenancy agreement. Therefore, the claim for loss of May, 2010, rent revenue is dismissed.

I have accepted the landlord's testimony that he compensated his agent via a rent abatement for work she completed cleaning the residence and find that the landlord is entitled to \$606.25 in cleaning costs.

As there is no verification of the costs incurred for supplies and no evidence before me as to when the unit was last painted I dismiss the portion of the landlord's claim for supplies and painting. It is reasonable to expect a rental unit to be painted once every 4 years and, as the landlord did not know when the unit was last painted, this portion of his claim did not succeed.

I find, pursuant to section 72(2) of the Act, that the landlord may retain the deposit paid, in partial satisfaction of the monetary claim.

I find that the landlord's application has merit, and I find that the landlord entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the landlord established a monetary claim, in the amount of \$1,381.25, which is comprised of \$1,331.25 in compensation and unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will retain the deposit in the sum of \$362.50, in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for \$968.75. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The balance of the landlord's claim is dismissed.

The tenant will be mailed a copy of this decision to his work address, supplied by the landlord.

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: September 17, 2010.

Dispute Resolution Officer