



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR; MND; MNDC, MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent, damage to the rental unit and for compensation for damage or loss; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

There was a written month-to-month tenancy agreement between the parties, a copy of which was entered in evidence. The tenancy started on November 1, 2009. Monthly rent was \$795.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$397.50 at the beginning of the tenancy.

The Landlord's agent gave the following testimony:

On March 18, 2010, the Tenant gave the Landlord written notice that he was ending the tenancy effective April 30, 2010, because he was no longer able to pay rent. A copy of the Tenant's notice was entered in evidence. The Tenant's rent cheques for the months of March and April, 2010, were returned to the Landlord, NSF. The Tenant did not shampoo the carpets at the end of the tenancy and the Landlord is seeking to recover

the cost of carpet shampooing. The Landlord provided a copy of the Condition Inspection Report and the carpet cleaning invoice in evidence. The move-out Condition Inspection Report was completed by both of the parties on April 1, 2010. The Landlord is seeking a monetary award, calculated as follows:

Unpaid rent for March, 2010	\$795.00
Late fees and NSF fees for March, 2010	\$50.00
Unpaid rent for April, 2010	\$795.00
Late fees and NSF fees for April, 2010	\$50.00
Cost of cleaning carpet at the end of the tenancy	<u>\$78.75</u>
TOTAL MONETARY CLAIM	\$1,768.75

The Tenant gave the following testimony:

The Tenant is not disputing the Landlord's claim for unpaid rent, late fees and NSF fees for the month of March, 2010, and the cost of shampooing the carpet.

The Tenant testified that the resident manager contacted the Tenant and asked him if he would be able to vacate the rental unit early because she had found a tenant for April 1, 2010. The Tenant stated that he moved out of the rental unit on March 31, 2010, because he thought there was a new tenant moving into the rental unit. He stated that later on, the resident manager told him that the Landlord was not able to re-rent the rental unit for April 1, 2010 and that he would have to pay rent for the month of April. The Tenant testified that he wrote to the Landlord and asked if he could stay in the rental unit until the end of April because they couldn't find another tenant, and the Landlord said no. The Tenant does not believe it is fair that he has to pay rent for the rental unit as well as his new accommodation for the month of April, 2010.

The Landlord's witness gave the following testimony:

The witness is the resident manager at the rental property and was the person who had the conversation with the Tenant about moving out at the end of March, 2010.

She testified that she thought she might have a new tenant for April 1, 2010, but that it didn't work out. She stated that she and the Tenant had discussed the possibility of her finding a new tenant and she asked the Tenant if he would be able to move out early if she found a new Tenant for April 1, 2010. She testified that she did her best to rent it out for April 1, 2010, in order to help the Tenant. She stated that she told the Tenant on April 1, 2010, that she had not been able to re-rent the rental unit.

The Landlord ran an advertisement in the local paper and on its web-site, and placed a "for rent" sign on the rental property in an attempt to re-rent the rental unit for April 1, 2010.

Analysis

Verbal agreements between parties can be binding if the parties agree on the terms of the agreement. In this case, the parties do not agree that there was a verbal agreement to end the tenancy on March 31, 2010. There was no written mutual end of tenancy agreement between the parties with respect ending the tenancy on March 31, 2010. When the Tenant's rent cheque for March, 2010, was returned NSF, the Landlord did not issue and serve the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent which would require the Tenant to move out earlier than April 30, 2010.

Therefore, I find that the Landlord is entitled to unpaid rent for the months of March and April, 2010.

A landlord is entitled to administration fees for late payment of rent and return of a tenant's cheque to a maximum amount of \$25.00 each, if there is a provision in the tenancy agreement for those fees. In this case, the tenancy agreement provides for these administrative fees. Therefore, the Landlord is entitled to this portion of her claim for late fees and NSF fees for the months of March and April, 2010, in the total amount of \$100.00.

On the Condition Inspection Report, the Tenant agreed to the charge of \$78.75 for the cost of cleaning the carpet, and I allow this portion of the Landlord's claim.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of its monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent	\$1,590.00
Administration fees	\$100.00
Cost of shampooing carpets	\$78.75
Recovery of filing fee	\$50.00
Less set-off of security deposit	<u>-\$397.50</u>
TOTAL	\$1,421.25

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of \$1,421.25 against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) 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: September 03, 2010.
