

Decision

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

Introduction

This hearing dealt with an application by the landlord for a monetary order as compensation for unpaid rent; compensation for damage to the unit; compensation for damage or loss under the Act, regulation or tenancy agreement; retention of the security / pet damage deposits; and recovery of the filing fee.

The landlord participated in the hearing and gave affirmed testimony. The landlord testified that the application for dispute resolution and notice of hearing were sent to the tenants by way of registered mail, however, the tenants did not appear. I am satisfied that the tenants were sufficiently served for the purposes of the Act.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

The tenancy began on June 25, 2005 and was structured, over time, pursuant to several written tenancy agreements. The most recent fixed term was from September 1, 2009 to January 31, 2010. Rent in the amount of \$1,500.00 was payable in advance on the first day of each month. A security deposit of \$650.00 was collected on June 25, 2005. A pet damage deposit of \$750.00 was collected on or about October 1, 2009.

The landlord claims that various complaints were made about the tenancy beginning in 2009. Complaints concerned a range of things including, but not necessarily limited to, the behaviour of the tenant's dog, dog droppings left unattended to, the building of a workshop on the balcony, the attachment of a plastic sheet and canvas to the rear

of the building, theft of electricity, a strong odour from the unit, generally unsanitary conditions and so on.

As follow up to a conversation with the tenants, by way of e-mail dated December 22, 2009, the landlord gave notice to end tenancy effective at the end of the fixed term on January 31, 2010.

Subsequently, there was damage in the unit as a result of a major water leak which occurred above the unit on or about January 15, 2010. The landlord claims that the tenant failed to inform him of this occurrence and that the tenant also denied early access to the unit by a restoration company hired by the strata council. All of this information later came to the landlord's attention on February 5, 2010 through the building manager.

After the end of the fixed term, the landlord attended the unit on February 1, 2010, but as the door was locked from the inside he was unable to gain access.

By way of issuance of a "notice of final opportunity to schedule a condition inspection report," the landlord proposed that a move-out condition inspection and report be undertaken on February 7, 2010. However, the tenants failed to respond.

The tenant abandoned the unit sometime during the first half of March 2010, and thereafter, later in March his remaining belongings were removed without the landlord's knowledge and without the landlord's consent to enter the unit.

A move-out condition inspection and report were ultimately completed by the landlord on March 30, 2010. The landlord claims that in addition to personal possessions, "items that belonged to the rental unit were also removed, such as shelving, brackets, fixtures etc." The landlord testified that when the tenancy began in 2005, the unit was in new

condition and included new appliances. When the landlord entered the unit to conduct the inspection, he found a unit in need of extensive cleaning and repairs.

In early April 2010 the restoration company returned to complete the repairs, and restoration work continued into May 2010. The landlord claims that, further to restoration work, he “had to replace the damaged and broken bathroom vanity, counter top, bowl and taps, closet shelving, and other items which could not be repaired or for which parts were no longer available.” Following the completion of cleaning and repairs, new tenants were found effective from mid June 2010.

In support of his application the landlord submitted evidence which includes, but is not necessarily limited to, a move-in and move-out condition inspection report, a log, photographs and miscellaneous receipts.

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

The various aspects of the landlord’s application and my findings around each are set out below.

\$6,000.00: unpaid rent / loss of rental income (February, March, April & May 2010: 4 x \$1,500.00) (an arithmetic error shows this amount in the application as \$4,500.00).

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the limited amount of **\$4,500.00***. I dismiss the aspect of the application concerning loss of rental income for May 2010 (\$1,500.00) on the basis that, further to cleaning and repairs required as a result of the tenancy, restoration work required to address water damage arose from circumstances unrelated to the tenancy.

\$1,307.84*: *removal / replacement of damaged floor covering*. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find the landlord has established entitlement to the full amount claimed.

\$1,150.00: *travel, parking and filing fees, fob, keys, keyset etc*. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find the landlord has established entitlement to the limited amount of **\$250.00***.

The aspect of the claim which concerns a \$50.00 filing fee is hereby dismissed on the basis that it applies to a previous and separate proceeding.

The aspect of the claim in the amount of \$850.00 (34 x \$25.00) which concerns time (including driving time), mileage, and parking, is also hereby dismissed as I consider these to be costs of doing business which the landlord is not entitled to recover under the Act.

\$2,398.00*: *miscellaneous labour and materials*. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find the landlord has established entitlement to the full amount claimed.

Total: \$8,455.84

I order that the landlord retain the security deposit of \$650.00 plus interest of \$23.04, as well as the pet damage deposit of \$750.00 (no interest accrued) and I grant the landlord a monetary order under section 67 of the Act for the balance owed of **\$7,032.80** (\$8,455.84 - \$1,423.04).

Residential Tenancy Policy Guideline # 13 addresses "Rights and Responsibilities of Co-Tenants," and provides in part:

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$7,032.80**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: October 14, 2010

Dispute Resolution Officer