



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

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

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary Order pursuant to Section 67 in the sum of \$1,855.00;
2. An Order allowing the landlord to retain the security deposit; and
3. An Order to recover the filing fee pursuant to Section 72.

The landlord gave evidence that tenant was served with the Application for Dispute Resolution by registered mail. As the *Residential Tenancy Act* allows for service by this method I am satisfied that the tenant has been duly deemed served as required by the Act.

The tenant did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Background and Findings

Monetary Order – Rent and Liquidated Damages

The landlord submitted a tenancy agreement between the parties showing that this tenancy was set for a fixed term to end December 31, 2010. However, the landlord says the tenant vacated the rental unit on June 30, 2010 without paying rent for June. The

landlord seeks June rent in the sum of \$1,280.00 plus liquidated damages of \$200.00. The Tenancy Agreement submitted in evidence contains a clause respecting liquidated damages, it states:

LIQUIDATED DAMAGES: If the tenant ends the fixed term tenancy before the end of the original term as set out in (B) above, the landlord may treat this Agreement as being at an end. In such event, the sum of \$200.00 will be paid by the tenant to the landlord as a liquidated damages and not as a penalty. Liquidated damages covers the landlord's cost of re-renting the rental unit and must be paid in addition to any other amounts owing by the tenant, such as unpaid rent or for damage to the rental unit or residential property.

As the rent claimed is for a month during which the tenant resided in the rental unit but did not pay rent and is not claimed for loss of rental income along with the liquidated damage fee then I will allow the landlord's claim for \$1,280.00 for rent.

As the tenant vacated the rental unit prior to the end of the fixed term and as the landlord has not claimed for loss of rental income and has therefore treated the tenancy as at an end, I will allow the landlord's claim for \$200.00 in liquidated damages.

Monetary Order – NSF fees, Damages, Cleaning and Repairs

The landlord submits that the tenant's rent cheques were returned due to insufficient funds on five occasions. The landlord now claims \$150.00 in non-sufficient fund fees however the Tenancy Agreement does not contain a clause in which the tenant agreed to pay such fees and I therefore decline to award this sum.

The landlord submitted photographs of the rental unit taken at move out. The landlord claims \$300.00 for cleaning the rental unit but has not provided receipts for the cleaning costs. Without a receipt I am not satisfied as to the amount claimed and I therefore dismiss this claim.

The landlord also claims the costs of having a door repaired in the sum of \$100.00. The landlord has failed to prove that the tenant caused the damage to the door that necessitated the repairs and I therefore dismiss this claim.

The landlord also claims the cost of re-keying the locks. The landlord testified that the tenant did not return the rental unit keys when she vacated. The landlord has supplied a receipt in evidence and I therefore allow this claim in the sum of \$105.00.

The landlord claims a fee of \$300.00. The landlord testified that this fee is the management fee for attending to this arbitration. That the landlord has chosen to hire a management company to represent him/her at this hearing is the choice of the landlord. As it is not required it is not a fee for which the tenant should be held responsible. The claim for \$300.00 in management fees is therefore dismissed.

The landlord claims the costs of mailing the hearing package to the tenant in the sum of \$50.00. The only cost recovery I have authority to award in these application's is the cost of the filing fee. I therefore dismiss the landlord's claim for recovery of \$50.00 in mailing costs.

The landlord claims recovery of the \$50.00 filing fee paid for this application and as the landlord has been partially successful in this claim I will allow the landlord to recover this fee.

The landlord has sought to retain the security deposit and as I have made a monetary award in the landlord's favour I will allow him to retain the deposit in partial satisfaction of this award calculated as follows:

June rent & Liquidated damages	\$1,480.00
Re-keying locks	105.00
Filing Fees	50.00
Less Security Deposit (no interest accrued)	-640.00
Total monetary Order in favour of landlord	\$995.00

Total monetary award in favour of the landlord \$995.00.

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.
