



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 hearing dealt with an application by the landlord seeking a monetary claim against the tenant due to unpaid rent, damage to the rental unit, compensation for loss due to a breach of the tenancy agreement and a request to retain the tenant's security deposit in partial satisfaction of this claim.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form and to make submissions to be made.

The landlord provided a certificate of service which declares that the tenant was served in person with notice of the landlord's application for Dispute Resolution, notice of this hearing and copies of all the documentary evidence, at her place of employment on August 24, 2010 at 12:50 p.m.

I accept that the tenant was served with notice of this hearing in accordance with section 89 of the *Act* and I proceeded with the hearing in the tenant's absence.

Issue(s) to be Decided

Did the tenant breach the tenancy agreement, *Act* and regulations entitling the landlord to monetary relief?

Background and Evidence

This tenancy began on October 16, 2009 for a fixed term ending on October 31, 2010. The tenant paid a security deposit of \$412.50 on October 16, 2009. The monthly rent of \$825.00 was due on the 1st of each month.

In March 2010 the tenant failed to pay the full rent owed and abandoned the rental unit without notice and without providing a forwarding address. Before vacating the rental

unit the tenant was served with a 10 day Notice to End Tenancy Due to Unpaid Rent when it was posted to the door of the rental unit on March 6, 2010. The landlord submits that the tenant failed to return the rental unit in a clean and undamaged condition. The landlord seeks the sum of \$200.00 to clean the rental unit. The landlord submits that the fridge, stove, and bathroom all had to be cleaned as well as the floors to the rental unit. In addition, the tenant left behind clothes and other items which had to be disposed of. The landlord stated that \$100.00 of the \$231.00 invoice was the estimated cost of removing the debris left behind by the tenant. I also accept that the tenant's pet damaged the edges of the cabinets which the landlord had to repair with touch up painting. The landlord also seeks \$300.00 in liquidated damages due to the tenant's breach of the fixed term tenancy.

The landlord also seeks the outstanding rent from March 2010 for the sum of \$585.00, a late payment of rent fee for March 2010 for the sum of \$25.00 and loss of rental revenue for April 2010 for the sum of \$825.00. The landlord also seeks reimbursement for the \$50.00 filing fee paid for this application.

From the total claim of \$2,125.00 the landlord seeks to retain the tenant's security deposit of \$412.50 in partial satisfaction.

Analysis

Based on the testimony and evidence provided, and on a balance of probabilities, I find as follows:

Section 7(1) of the Act provides that if a landlord or tenant does not comply with this Act, the Regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for the damage or loss which results. That being said, section 7(2) also requires that the party making the claim for compensation for damage or loss which results from the other's non-compliance, must do whatever is reasonable to minimize the damage or loss.

The party applying for compensation has the burden to prove their claim and in order to prove their claim the applicant must provide sufficient evidence to establish the following:

1. That the Respondent violated the Act, Regulation, or tenancy agreement; and
2. The violation resulted in damage or loss to the Applicant; and
3. Verification of the actual amount required to compensate for loss or to rectify the damage; and
4. The Applicant did whatever was reasonable to minimize the damage or loss

I am satisfied that the tenant has breached the tenancy agreement by failing to pay the rent owed and abandoning the rental unit. As a result, I find that the tenant is responsible for the outstanding rent owed and the late payment of rent fee for the sum of \$610.00, the landlord's loss of rental revenue for April 2010 for \$825.00 plus the liquidated damages of \$300.00 for breaching the fixed term tenancy.

I also accept the tenant breached section 32 of the *Act* by failing to return the rental unit to the landlord in a clean and undamaged condition. I accept that the landlord was required to clean the rental unit and had to remove debris left behind by the tenant. I also accept that the tenant's pet damaged the edges of the cabinets which the landlord had to repair with touch up painting. I award the landlord the amount claim for the sum of \$340.00.

Finally I grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant and I grant the landlord's request to retain the tenant's security deposit in partial satisfaction of this claim.

I find that the landlord has established a total monetary claim for the sum of \$2,125.00. From this sum I order that the landlord may retain the tenant's security deposit of \$412.50 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining sum of **\$1,712.50** pursuant to section 67 of the *Act*.

Conclusion

I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenant for the sum of **\$1,712.50**. This Order must be served on the tenant. This Order may be filed with the Province of British Columbia Small Claims Court 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: December 16, 2010.

Dispute Resolution Officer