Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes   CNR, OPR, MNR, MNDC, OLC, FF

Introduction

This was the hearing of applications by the tenant and the landlord. The tenant applied to cancel a Notice to End Tenancy for unpaid rent and applied for a monetary order. The landlord applied for a monetary order and an order for possession. The hearing was conducted by conference call. The landlord and the tenant participated in the hearing. The tenant vacated the rental unit and the tenancy ended on October 31, 2010 and an order for possession is not required.

Issues(s) to be Decided

Is the tenant entitled to a monetary order and if so, in what amount?
Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is a house in Burnaby. The tenancy began in March, 2007. It was initially occupied by the tenant, his wife and another couple. I was told that sometime later a fifth person moved into the renal unit. The current rent for the unit at the end of the tenancy was $2,450.00. The tenant paid a $1,100.00 security deposit at the commencement of the tenancy.

According to the tenant he told the landlord that he was moving out at the end of October and the landlord agreed that he could apply his security deposit to October

rent. He said the landlord agreed to obtain a new deposit from a new tenant who was going to stay in the unit after the tenant left. The tenant paid $1,350.00 rent for October.

The tenant testified that there was a water main leak at the rental unit and when the landlord was in the house making repairs he collided with the tenant's 50" plasma TV and cracked the screen. He said that that landlord also stepped on a box and broke some glass ornaments. The tenant said that he paid $1,100.00 for the TV in 2007. He said that he threw out the TV. He claimed a monetary order in the amount of $1,100.00 for the purchase price of the TV. The landlord denied breaking the TV. He said that he was not in the house to make repairs because the water main repair was done outside the house. He also said that the tenant did not have a large plasma TV.

The landlord testified that the tenant did not give proper notice before moving out and tried to get him to agree to rent the unit to a stranger. He said that he did not agree that the tenant could apply the security deposit to rent due for October. He served the tenant with a 10 day Notice to End Tenancy for unpaid rent dated October 7, 2010. The tenant applied to dispute the Notice on October 8, 2010.

The landlord testified that the tenant left the rental unit in a mess. He has been working since October 31, 2010 to clean and repair the unit; it is still not in condition to allow it to be re-rented.

Analysis and Conclusion

I deny the tenant's claim for a monetary order. The landlord denied breaking a TV. I find that the tenant has not proven on a balance of probabilities that the TV existed or that it was broken by the landlord. Appropriate evidence substantiate such a claim would include a receipt for the TV, a photograph of the TV and a photograph showing the damage to the TV alleged to have been caused by the landlord. In the absence of any such proof I dismiss the tenant's claim without leave to reapply.

The landlord claimed a monetary order in the amount of $1,100.00 for unpaid rent for October. The tenant admitted the he paid only $1,350.00 rent for October. I find that the landlord is entitled to a monetary order in the amount of $1,100.00. the landlord is entitled to recover the $50.00 filing fee paid for his application for a total award of $1,150.00. I order that the landlord retain the deposit and interest in the amount of $1,130.53 in partial satisfaction of the award and I grant the landlord an order under section 67 in the amount of $19.47.

The landlord has leave to reapply for a monetary order for cleaning and repair costs and loss of revenue when those costs have been established.

Dated: November 08, 2010. _____