



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

MND, MNDC, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit; for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on November 01, 2010. The service address is the forwarding address provided by the Tenant at the end of this tenancy. The Landlord submitted Canada Post Documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for unpaid rent, for loss of revenue, and damage to the rental unit; to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord submitted a copy of a tenancy agreement that shows this tenancy began on June 01, 2010; that it was for a fixed term that ended on May 31, 2012; that the Tenant was required to pay monthly rent of \$1,850.00 on the first day of each month; that the Tenant paid a security deposit of \$925.00 and that the Tenant paid a pet deposit of \$925.00.

The Landlord stated that the Tenant has not paid rent for October of 2010 and that on October 13, 2010 she verbally advised the Landlord that she would be vacating the rental unit on October 15, 2010. He stated that the Tenant did not provide the Landlord with written notice to end this tenancy. He stated that the Tenant did vacate the rental

unit on October 15, 2010. The Landlord is seeking compensation for unpaid rent from October of 2010.

The Landlord is seeking compensation, in the amount of \$1,850.00, for loss of revenue he experienced in November of 2010. The Landlord stated that he began advertising the rental unit sometime near the beginning of November of 2010, after he had cleaned it and repaired the damage to the unit. He stated that he advertised the rental unit on two popular websites and that he posted notices regarding the vacancy at his place of business and in the window of the rental unit. He stated that the rental unit is still vacant.

The Landlord submitted a copy of a Condition Inspection Report, which the Landlord stated was completed at the beginning of the tenancy and the end of the tenancy. This Report which appears to be signed by the Tenant at the start of the tenancy, indicates that the rental unit was in good condition at the beginning of the tenancy, apart from a few minor deficiencies. This Report appears to have been signed by the Tenant on October 15, 2010, at which time the Tenant appears to have given the Landlord written authorization to retain her security and pet damage deposits.

The Landlord is seeking compensation, in the amount of \$3,043.00, for the cost of repairing and painting the walls in the rental unit. The Landlord stated that the rental unit had been painted in January of 2010. The Condition Inspection Report which was completed at the end of the tenancy clearly indicates that the walls in several areas needed repairing and painting, which is corroborated by photographs that were submitted in evidence.

The Landlord submitted an estimate from a professional company for repairing and painting the walls, in the amount of \$2,795.52, and a second estimate from a professional company for repairing and painting the walls, in the amount of \$3,360.00. He stated that he elected to paint and repair the walls himself, and that it took him approximately seventy hours to repair and paint the walls. He submitted no evidence to establish how much he paid for supplies used to repair and paint the walls.

The Landlord is seeking compensation, in the amount of \$85.57, for the cost of rekeying the rental unit. The Landlord stated that the rental unit needed to be rekeyed as the Tenant did not return the keys to the unit. The Condition Inspection Report corroborates this statement. The Landlord submitted a receipt that shows he incurred this expense.

The Landlord is seeking compensation, in the amount of \$425.00, for the cost of cleaning the carpets in the rental unit. The Landlord stated that the carpets needed

cleaning at the end of the tenancy. The Condition Inspection Report corroborates this statement. The Landlord submitted a receipt that shows he incurred this expense.

The Landlord is seeking compensation, in the amount of \$850.00, for the cost of cleaning the rental unit. The Landlord stated that many areas of the rental unit required cleaning at the end of the tenancy. The Condition Inspection Report corroborates this statement. The Landlord stated that he spent approximately 4 hours cleaning the laundry room and 21 hours cleaning the rest of the rental unit, for a total of 25 hours.

The Landlord is seeking compensation, in the amount of \$560.00, for the cost of cleaning and repairing the blinds in the rental unit. The Landlord stated that the blinds needed cleaning and that some of the blinds needed to be repaired at the end of the tenancy. The Condition Inspection Report and photographs submitted in evidence corroborate this statement. The Landlord stated that he spent approximately 20 hours cleaning and repairing the blinds.

The Landlord is seeking compensation, in the amount of \$210.00, for the cost of repairing the carpet in the rental unit. The Landlord stated that the carpet had been snagged or pulled in several places and that the damage was likely caused by the Tenant's cat. The Condition Inspection Report and photographs submitted in evidence corroborate this statement. The Landlord stated that he spent approximately seven or eight hours repairing the pulls in the carpet.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the parties entered into a fixed term tenancy that began on June 01, 2010 that was scheduled to end on May 31, 2012; that the Tenant was required to pay monthly rent of \$1,850.00 on the first day of each month; that the Tenant paid a security deposit of \$925.00 and that the Tenant paid a pet deposit of \$925.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was occupying the rental unit on October 01, 2010 and that she did not pay rent that was due on October 01, 2010. Section 26 of the *Act* requires tenants to pay rent when it is due. I therefore find that the Tenant was obligated to pay rent of \$1,850.00 on October 01, 2010 and that she must now pay that amount to the Landlord.

I find that the Tenant did not comply with section 45(2) of the *Act* when she vacated this rental unit on a date that was earlier than the end date specified in the tenancy agreement. I find that the Landlord suffered a loss of revenue during the month of November that the Landlord would not have experienced if the Tenant had complied

with the terms of her tenancy agreement. In the absence of evidence to the contrary, I find that the Landlord made reasonable attempts to find new tenants for the rental unit. I therefore find that the Tenant must compensate the Landlord for the \$1,850.00 in revenue the Landlord lost in November of 2010.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that a damage or loss occurred; that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the walls in the rental unit were in good condition at the start of the tenancy and that they needed repairing and painting at the end of the tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the walls undamaged at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

In these circumstances I find that the Landlord is entitled to compensation for the seventy hours he estimates that he spent repairing and painting the walls. I find that the Landlord is entitled to compensation of \$1,400.00, which is calculated at an hourly rate of \$20.00 per hour, which I find to be reasonable for labour of this nature.

In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant, whenever compensation for damages is being claimed. In these circumstances, I find that the Landlord failed to establish the cost of supplies used to repair and paint the walls in the rental unit. In reaching this conclusion, I was strongly influenced by the absence of any documentary evidence, such as receipts, to establish the cost of the supplies used. On this basis, I award nominal damages for supplies used to repair and paint the walls, in the amount of \$1.00. This award merely serves as an acknowledgement that the Landlord is entitled to compensation and is not intended to reflect the true cost of the supplies used.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not return the keys to the rental unit. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to return the keys to the rental unit at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the

Act, which I find to be \$85.57, as indicated by the receipt that was submitted in evidence.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not adequately clean the carpets at the end of the tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the carpets in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which I find to be \$425.00, as indicated by the receipt that was submitted in evidence.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the rental required cleaning at the end of the tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

In these circumstances I find that the Landlord is entitled to compensation for the twenty-five hours he estimates that he spent cleaning the rental unit. I find that the Landlord is entitled to compensation of \$500.00, which is calculated at an hourly rate of \$20.00 per hour, which I find to be reasonable for labour of this nature.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the blinds in the rental required cleaning and repair at the end of the tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the blinds undamaged and in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

In these circumstances I find that the Landlord is entitled to compensation for the twenty hours he estimates that he spent cleaning the blinds. I find that the Landlord is entitled to compensation of \$400.00, which is calculated at an hourly rate of \$20.00 per hour, which I find to be reasonable for labour of this nature.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the carpets in the rental were damaged during this tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the carpet undamaged at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

In these circumstances I find that the Landlord is entitled to compensation for the eight hours he estimates that he spent repairing the carpet. I find that the Landlord is entitled to compensation of \$160.00, which is calculated at an hourly rate of \$20.00 per hour, which I find to be reasonable for labour of this nature.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$6,771.57, which is comprised of \$1,850.00 in unpaid rent from October of 2010; \$1,850.00 in loss of revenue from November of 2010; \$2,971.57 in compensation for cleaning and damages; and \$100.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

As the Tenant has permitted the Landlord to retain her security deposit and pet damage deposit for damages caused to the rental unit, I find that this monetary claim must be reduced by the amount of these deposits, which is \$1,850.00. Based on these determinations I grant the Landlord a monetary Order for the amount \$4,921.57. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: January 13, 2011.

Residential Tenancy Branch