



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, MNSD, & FF

Introduction

This hearing dealt with the landlord's application seeking monetary compensation due to the tenant's breach of the fixed term tenancy agreement. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

Issue(s) to be Decided

Did the tenant breach the fixed term tenancy agreement entitling the landlord to compensation for a loss of rental revenue?

Did the tenant breach the tenancy agreement by having a pet in the rental unit?

Background and Evidence

The parties entered into a one year fixed term tenancy agreement commencing December 1, 2009 and ending effective November 30, 2010. The monthly rent was \$1,400.00 and the tenant paid a security deposit of \$700.00 on November 12, 2009.

On August 19, 2010 and again on August 21, 2010 the tenant sent the landlord e-mails indicating that she would have to break the fixed term tenancy agreement. The tenant vacated the rental unit as of September 30, 2010.

The landlord is seeking compensation for the loss of one month's rent in the amount of \$1,400.00 and the sum of \$200.00 related to hiring another agent to assist with finding new occupants. The landlord stated that a new agent had to be hired because their other agent was apparently unavailable.

The landlord also submitted that after the tenancy ended and once the new occupant moved into the rental unit they discovered evidence that the tenant may have had a pet

in the rental unit. The landlord was required to clean the carpets again and want the tenant to reimburse them the sum of \$60.00.

The tenant disputes the landlord claim submitting that the landlord and her agent could have done more to ensure that a new occupant was secured for October 2010. Specifically, the tenant pointed to a couple of examples where the agent was not available and submitted that the landlord should have taken more proactive steps to be involved. The tenant denies that she ever had a pet in the rental unit and also provided evidence that the carpets were cleaned when she vacated the rental unit.

The landlord submitted that all attempts to rent the unit were made; however, market conditions resulted in the landlord having to reduce the rent by \$100.00 a month before a new occupant was secured. The landlord confirmed that the rental unit was shown five times in September and showings continued into October. A new occupant was only secured after the landlord reduced the rent in mid to late October 2010.

Analysis

Based on the evidence and testimony before me and on the balance of probabilities, I grant the landlord's application in part.

I find that the landlord was unable to rent the suite prior to November 2010 due to market and economic factors more than based on a lack of effort. Although the tenant had some concerns about delays and lack of communication by the landlord's agent with pursuing prospective renters, I am persuaded by the fact that the landlord did not rent the suite until the rent was reduced. The landlord and the tenant both showed the unit several times but it is most likely that the unit was no longer competitive in the current rental market.

Therefore, I find that the tenant is responsible for the landlord's loss of rental income in October 2010 in the amount of \$1,400.00.

I do not accept the landlord's claim in the amount of \$200.00 related to hiring a new agent to assist in finding a new renter. The landlord already had an agent and I find that the landlord had to hire a new agent because the original agent was unavailable. I do not accept that this is an expense that the tenant is responsible for. The landlord is entitled to expected costs due to a breach of the tenancy agreement, such as loss of rent or advertizing costs, but not a usual cost of the landlord conducting business. I deny this portion of the landlord's claim.

I deny the landlord's claim that the tenant had a pet in the rental unit and I do not accept that the tenant is responsible for the additional carpet cleaning. I accept that the rental unit was clean and in good condition at the end of the tenancy and there is no evidence that the tenant had a pet during the tenancy. Although the new tenant has apparently experienced symptoms related to an animal allergy and although the carpet cleaner apparently picked up pet hair, I am not persuaded that these coincidences have any relation to a breach of the tenancy agreement by the tenant.

I find that the landlord has established a total monetary claim in the amount of \$1,450.00 comprised of loss of rental revenue for October 2010 plus the recovery of the \$50.00 filing fee paid by the landlord for this application. From this sum I Order that the landlord may retain the tenant's security deposit of \$700.00 in partial satisfaction of this claim.

Conclusion

I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenants for the sum of **\$750.00** and I grant the landlord a monetary Order in this amount. 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: February 21, 2011.

Residential Tenancy Branch