

DECISION

Dispute Codes: MND, MNDC, MNSD and FF

Introduction

This application was brought by the landlord on March 15, 2011 seeking a Monetary Order for damage to the rental unit, liquidated damages, recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on March 17, 2011 and having made written submissions, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence and was concluded after 10 minutes.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a monetary award as claimed.

Background and Evidence

This tenancy began on April 1, 2010 under a fixed term rental agreement set to end on March 31, 2011. The tenant left the tenancy on February 28, 2011, one month prior to the end date set by the fixed term agreement after giving one month's written notice..

Rent was \$980 per month and the landlord holds a security deposit of \$490.

During the hearing, the landlord made claim for \$250 in liquidated damages for the tenant ending the tenancy early as agreed under clause 5 of the tenancy agreement.

The landlord and tenant both submitted photographs showing damage to the entry door of the rental unit that had been reported to the landlord and repaired on September 20, 2011. The tenant had claimed the damage resulted as the locking door knob wasn't working properly and she had been using only the dead bolt. Her submission stated that her boyfriend, accustomed apply slight pressure to open the door, was unaware the deadbolt was engaged and pushed through it causing the door to split.

The landlord submitted a copy of an invoice from a professional service provider for \$436.80 for the cost of the repair.

He stated that there was no written record on file of the tenant having notified the landlord of the claimed problem with the door knob locking function. The landlord advised the tenant by letter of November 26, 2010 of the charge for repair against her account.

Analysis

Section 45(2) of the *Act* provides that, in the case of a fixed term rental agreement, a tenant may not give notice to end the tenancy on a date that comes before the end of tenancy date set by the agreement. The landlord claims only the liquidated damages amount set by the agreement on this claim and not loss of rent. I find the \$250 to be a reasonable estimate of administrative costs consequent to the breach by the tenant and this claim is allowed in full.

As to the cost of the repair to the door, I accept the evidence of the landlord that the damage was caused during the tenancy and that the rental unit was not left undamaged beyond reasonable wear and tear as required under section 37(2)(a) of the *Act*. The claim for door repair for \$436.80 is allowed in full.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenant.

As the landlord's claim on the security deposit complies fully with the requirements of section 38(1) of the *Act*, I authorize and order that he may retain the tenant's security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Liquidated damages	\$250.00
Repair to entry door	436.80
Filing fee	<u>50.00</u>
Sub total	\$736.80
Less retained security deposit (no interest due)	- 490.00
TOTAL	\$246.80

Conclusion

In addition to authorization to retain the tenant's security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order for **\$246.80**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

June 29, 2011