



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and utilities, for compensation for cleaning and repairs to the rental unit, to recover the filing fee for this proceeding and to keep the Tenant's security and pet damage deposit in partial payment of those amounts.

The Landlord said the Tenant was served in person on March 7, 2011 by a process server with a copy of the Application, Notice of Hearing and documentary evidence (the "hearing package"). The Landlord provided an Affidavit of Service sworn March 8, 2011 as evidence of this. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Are there rent and utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for cleaning and repair expenses and if so, how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This fixed term tenancy started on April 1, 2010 and was to expire on March 20, 2011 however it ended pursuant to an Order of Possession granted to the Landlord on July 13, 2010 and the Tenant moved out on July 28, 2010. Rent was \$950.00 per month payable in advance on the 1st day of each month plus 50% of the utilities (electricity, water and gas) for the rental property. The Tenant paid a combined security deposit and pet damage deposit of \$950.00 at the beginning of the tenancy.

The Landlord said the Tenant did not pay rent for July 2011 and he was unable to re-rent the rental unit for August 2011 because the Tenant left the rental unit damaged and unclean. The Landlord also said the Tenant did not pay his share of the utilities for April, May, June and July 2010.

The Landlord and Tenant completed a move in condition inspection report at the beginning of the tenancy which shows that the rental unit was clean and in a good state of repair at that time. The Landlord said that during the tenancy, however, the Tenant left his dog inside and the dog urinated and defecated all over the carpeting in the rental unit. The Landlord said the carpeting was approximately 5 years old and in good condition at the beginning of the tenancy, however at the end of the tenancy, it was so soiled that it could not be salvaged. The Landlord provided photographs of the carpet that he said he took on July 29, 2010.

The Landlord said the Tenant also damaged walls by cutting holes in them to run cables and also damaged a closet door. The Landlord said the Tenant also left behind a large amount of garbage and belongings which he had to dispose of. The Landlord further claimed that the Tenant did not clean the rental unit and he incurred expenses for that as well.

Analysis

In the absence of any evidence from the Tenant to the contrary, I find that there is unpaid rent for July 2010 of \$950.00 and unpaid utilities for the period April to July 2010 of \$439.40. Consequently, I find that the Landlord is entitled to recover those amounts.

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Section 45(2) of the Act says that a tenant of a fixed term tenancy cannot end the tenancy earlier than the date set out in the tenancy agreement as the last day of the tenancy.

I find that the Parties had a fixed term tenancy which ended as a result of a breach of the tenancy agreement by the Tenant (for which the Landlord was granted an Order of Possession). I also find that the Landlord was unable to re-rent the rental unit for August 2010 because he had to make repairs to the rental property. Consequently, I find that the Landlord is entitled to compensation for a loss of rental income for August 2010 in the amount of \$950.00.

Section 37 of the Act says that at the end of a tenancy, a Tenant must leave a rental unit reasonably clean and undamaged except for reasonable wear and tear. RTB Policy Guideline #1 defines “reasonable wear and tear” as natural deterioration that occurs due to aging and other natural forces, where the Tenant has used the premises in a reasonable fashion.”

I find that the damages to the carpeting and walls are the result of an act or neglect of the Tenant rather than due to reasonable wear and tear and as a result, I find that he must compensate the Landlord for his reasonable expenses to repair them.

The Landlord sought to recover expenses of \$2,674.56 to install new carpeting in the rental unit. However, given that the damaged carpet was not new but 5 years old, I find that it would already have sustained some wear and tear and as a result the Landlord is only entitled to recover the depreciated cost of the carpeting. RTB Policy Guideline #37 (Table 1) says the useful lifetime of a carpet is 10 years. Consequently, I find that the Landlord is entitled to recover one-half of the amount he has claimed for this expense or \$1,337.28.

I also find that the amount claimed (\$1,008.00) for repairing and painting over 3 holes in the drywall is unreasonable and instead I award the Landlord \$750.00 for this expense. I note that the invoice submitted by the Landlord for this expense also includes cleaning under some appliances and I note that the amount awarded includes this cleaning as well. The Landlord also sought a further \$33.50 for a closet repair, \$100.00 for additional general cleaning, \$56.00 for blind cleaning and \$300.00 for garbage removal. In the absence of any evidence from the Tenant that these amounts were not reasonably incurred, I find that the Landlord is entitled to recover them.

As the Landlord has been successful in this matter, he is entitled pursuant to s. 72(1) of the Act to recover from the Tenant the \$100.00 filing fee he paid for this proceeding. I order the Landlord to keep the Tenant's security deposit and pet deposit of \$950.00 in partial payment of the monetary award. The Landlord will receive a Monetary Order for the balance owing as follows:

Unpaid rent July 2010:	\$950.00
Unpaid utilities:	\$439.40
Lost rental income:	\$950.00
Carpet replacement:	\$1,337.28
Wall repairs:	\$750.00
Closet repair:	\$33.50
General cleaning:	\$100.00
Blind cleaning:	\$56.00
Garbage removal:	\$300.00
Filing fee:	<u>\$100.00</u>
Subtotal:	\$5,016.18
Less: Security/Pet deposit:	<u>(\$950.00)</u>
Balance Owing:	\$4,066.18

Conclusion

A Monetary Order in the amount of **\$4,066.18** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 16, 2011.

Residential Tenancy Branch