

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### **Introduction**

This is an application filed by the Landlord for a monetary order for damages to the unit, for unpaid rent and utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep all of the security deposit and recovery of the filing fee.

Both parties attended the hearing in person and gave testimony.

At the beginning of the hearing the Tenant made an application to adjourn and re-schedule the Landlord's application for dispute. The Tenant stated that she was not prepared and that she could not find any of her papers. The Tenant stated that she would like to file a cross application against the Landlord on the date of the hearing. I find that the Tenant has not provided a compelling reason to adjourn the hearing because of a cross application or not being prepared. The Tenant's application to adjourn is dismissed and the Landlord's application for dispute shall proceed.

### **Issue(s) to be Decided**

Is the Landlord entitled to a monetary order for unpaid rent and utilities, for damage to the unit and for loss of rental income?

Is the Landlord entitled to retain the security deposit?

### **Background and Evidence**

Both parties have attended the hearing and have referred to the Landlord's evidence. The Tenant has not filed any evidence.

This Tenancy began on January 15, 2011 on a fixed term tenancy until July 31, 2012 as submitted by the Landlord in the signed tenancy agreement. The Tenant states that she vacated the rental unit on June 20, 2011 after receiving a 10 day notice to end tenancy for unpaid rent. The Tenant disputes the signed tenancy agreement in her direct testimony, but confirms that the tenancy agreement was signed by her with the stipulated terms. The signed tenancy agreement shows a monthly rent of \$1,260.00

payable on the 15<sup>th</sup> of each month and a security deposit of \$630.00 was paid on January 15, 2011.

The Landlord claims that the Tenant gave written notice to vacate the rental unit on June 3, 2011. The Tenant states that verbal notice was given on May 15, 2011 followed by written notice 3 times. The Tenant has not provided any supporting evidence. The Landlord states that the only notice given was the letter dated June 3, 2011. This letter refers to the Tenant's written notice to vacate on June 15, 2011 and previous written notices given and a verbal notice given on May 15, 2011. The Landlord is claiming the loss of rental income for a breach of the fixed term tenancy of \$1,260.00 for July 15 to August 15 rental income. The Landlord states that they've tried to re-rent the unit, but that it remains unrented to the date of this hearing.

The Landlord states that after receiving notice from the Tenant to vacate on June 15, 2011, the Tenant asked to stay until the end of June and agreed to pay \$104.00 for unpaid utilities. The Landlord responded with two options. The first option was to end the tenancy on June 15, 2011 as provided by the Tenant. The second option provided by the Landlord is to pay the owing \$104.00 utilities, pay the June 15 to July 15 rent and pay the \$71.00 for an estimated pro-rated utilities bill for this extended period. The Tenant's request to apply the security deposit to rent was declined. On June 16, 2011 the Landlord states that the Tenant was served in person with a 10 day notice to end tenancy for unpaid rent. The Tenant confirms receiving the notice and vacating the rental unit on or about June 20, 2011. The Tenant confirmed that rent due June 15, 2011 was not paid. The Landlord is seeking to claim the unpaid rent for June 15 to July 15, 2011 of \$1,260.00.

The Landlord indicated during the hearing that they were withdrawing their application for the unpaid utilities of \$175.00 for the May 15 to June 15 utilities as no invoices were provided. The Landlord is now only seeking to recover the utilities of \$104.00 which were due for April 15 to May 14 as mentioned in the Tenant's letter dated June 12, 2011 to extend the tenancy and the 10 day notice to end tenancy. The Tenant disputes that this was paid, but has provided no evidence.

The Landlord has made a claim for \$35.00 for the cost of replacing locks because the Tenant failed to return 1 of 6 keys to the Landlord as shown on the incomplete condition inspection report and the letter dated June 29, 2011 from the Tenant stating the 1 key was taken and would be returned by mail. The Landlord states that no key was returned. The Tenant disputes this but has provided no supporting evidence. The Landlord has not provided any receipts for costs. The Landlord during direct testimony stated that the \$35.00 amount was based upon a previous cost for locks.

The Landlord has made a claim for the replacement of laminate flooring by providing two estimates. The first estimate is for \$2,500.00 plus tax from Mei Mei Renovation and Repair for 800 sq. ft. of flooring. The second estimate is for \$2,240.00 tax inclusive from Coquitlamhandyman.ca. The Landlord states that the laminate flooring was brand new and installed just before the Tenant moved in. The Landlord states that the flooring has not been replaced as they are short of funds to make the repairs. The Landlord relies on the condition inspection report for the move-in (which report no damage) and the incomplete inspection report for the move-out. The Landlord also relies on photographs showing the damaged floors taken during the incomplete inspection report for the move-out with the Tenants seen in the photographs during the inspection.

### Analysis

As both parties have attended the hearing and have referred to the submitted evidence of the Landlord, I am satisfied that the Tenant has been properly served with the notice of hearing and evidence packages. The Tenant has filed no evidence.

Based upon the direct testimony of both parties and the submitted evidence of the Landlord, I find on a balance of probabilities that the Landlord has established their claim. A fixed term tenancy exists which I find that the Tenant has breached. The Tenant through direct testimony stated that upon receipt of the 10 day notice to end tenancy for unpaid rent moved out on June 20, 2011 and failed to pay rent for June 15, 2011. I find that the Landlord has established the claim of unpaid rent for \$1,260.00. The Tenant having moved out on June 20, 2011 breached a material term of the fixed term tenancy. The Landlord is also entitled to the compensation for the loss of rental income for July of \$1,260.00.

The Landlord has amended the utilities claim to the lowered amount of \$104.00, I am satisfied based upon the submitted documents that the Tenant failed to pay the utilities for the period of April 15 to May 14. The Landlord is successful in this portion of the claim.

I find that although the Landlord has established a claim for the replacement of a lockset because of a missing key, they have failed to provide evidence of costs. As such the Landlord's claim in this portion of the application is dismissed.

I find on a balance of probabilities that the Landlord has established a claim for damaged floors based upon the incomplete condition inspection report for the move-out in conjunction with the photographic evidence submitted in contrast to the completed

condition inspection report for the move-in. The Landlord is awarded the lower of the two estimates for \$2,240.00.

I find that the Landlord has established a total monetary claim of \$4,864.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$630.00 security deposit in partial satisfaction of the claim. I grant the Landlord an order under section 67 for the balance due of \$4,284.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted a monetary order for \$4,284.00.  
The Landlord may retain the security deposit.

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: July 26, 2011.

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Residential Tenancy Branch