



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNSD, MNR, FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent and damages to the rental unit; to apply the security deposit in partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he served the Tenant with the Notice of Hearing documents by registered mail sent April 15, 2011 to the forwarding address provided by the Tenant. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

I accept the Landlord's affirmed testimony and documentary evidence that he served the Tenant with the Notice of Hearing Package pursuant to the provisions of Section 89(1)(c) of the Act. Section 90 of the Act deems service of documents in this manner to be effected 5 days after mailing the documents. In spite of being served with the documents, the Tenant did not appear at today's Hearing and the Hearing proceeded in her absence.

Issue(s) to be Decided

- (1) Is the Landlord entitled to a monetary award for loss of revenue for the month of April, 2011, and damages to the rental unit?

Background and Evidence

The Landlord gave the following affirmed testimony:

The tenancy began on December 1, 2010. The tenancy agreement provides that monthly rent of \$1,300.00 was due on the first day of each month. However, the Landlord and Tenant had a verbal agreement that the Tenant could pay rent on the 3rd day of each month, to accommodate the Tenant's pay periods. The Tenant paid a security deposit in the amount of \$650.00 on December 1, 2010.

On March 10, 2011, the Tenant sent an e-mail to the Landlord advising that she would be ending the tenancy effective March 31, 2011, and providing her forwarding address.

The Tenant moved out of the rental unit on March 31, 2011, and refused to participate in the move-out condition inspection.

The Landlord submitted that the Tenant did not provide sufficient notice to end the tenancy and seeks loss of revenue for the month of April, 2011, as he was unable to re-rent the rental unit for the month of April, 2011.

The Landlord also seeks a monetary award for damages to the rental unit, as follows:

Replacement part for stove	\$150.00
Repair carpet	\$100.00
Repair drywall	<u>\$50.00</u>
TOTAL	\$300.00

Analysis

Section 45(1) of the Act provides the ways that a Tenant can end a month-to-month tenancy, as follows:

Tenant's notice

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) **is not earlier than one month** after the date the landlord receives the notice, and

(b) **is the day before the day in the month**, or in the other period on which the tenancy is based, **that rent is payable under the tenancy agreement.**

(emphasis added)

Section 52 of the Act states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be **in writing** and **must**

(a) **be signed** and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

(emphasis added)

Based on the Landlord's testimony, I find that rent was due on the 3rd day of each month. Therefore, I find that the Tenant did not comply with Section 45 (1) of the Act. I further find that the Tenant did not comply with Section 52 of the Act and provide the Landlord with notice to end the tenancy in writing. Based on the undisputed testimony of the Landlord's agent, I find that the Tenant did not provide sufficient notice to end the tenancy and the Landlord suffered a loss as a result of that breach. Therefore, the Landlord is entitled to loss of revenue in the amount of \$1,300.00 for the month of April, 2011.

The Landlord did not provide sufficient evidence to support his claim for damages to the rental unit. The Landlord did not provide invoices or receipts for the amounts claimed, or proof that the Tenant had damaged the stove, carpet or drywall. This portion of his claim is dismissed.

The Landlord has been largely successful in his claim and is entitled to recover the cost of the filing fee from the Tenant.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit in partial satisfaction of his monetary claim. No interest has accrued on the security deposit.

I hereby provide the Landlord with a Monetary Order against the Tenant, calculated as follows:

Loss of rent for April, 2011	\$1,300.00
Recovery of filing fee	\$50.00
Less security deposit	<u><\$650.00></u>
TOTAL amount due to Landlord after set off	\$700.00
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Conclusion

I hereby provide the Landlord a Monetary Order in the amount of **\$700.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: July 27, 2011.

Residential Tenancy Branch