



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND; MNR; MNDC, MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent and utilities, loss of revenue, and the cost of cleaning the rental unit at the end of the tenancy; to retain the security deposit in partial satisfaction of his monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Tenant did not provide a forwarding address at the end of the tenancy, so the Landlord hired a skip tracer. He stated that the skip tracer found the Tenant. The Landlord provided a copy of the skip tracer's statement dated May 12, 2011, advising of the Tenant's current residential address. The Landlord testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail sent May 18, 2011, to the Tenant's current residential address. The Landlord provided the tracking numbers for the registered documents. The Landlord testified that the documents were returned to him "unclaimed".

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, pursuant to the provisions of Section 71(2)(c) of the Act, I find that the Tenant was sufficiently served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents whether or not the recipient chooses to accept delivery. Despite being deemed served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Issues to be Decided

Is the Landlord entitled to compensation pursuant to the provisions of Section 67 of the Act?

Background and Evidence

The Landlord gave the following testimony and evidence:

The parties entered into a tenancy agreement on July 1, 2009. A copy of the tenancy agreement was provided in evidence. Monthly rent was \$825.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$442.50 on July 1, 2009.

On or about October 4, 2010, the Tenant gave the Landlord a note that he was ending the tenancy effective November 5, 2010. The Landlord provided a copy of the handwritten note in evidence. The Landlord submitted that this note does not comply with the requirements of Act with respect to a tenant's notice to end a tenancy, and that he could not legally re-rent the unit until after the Tenant moved out. The Tenant moved out on November 4, 2010. The Landlord completed a Condition Inspection Report in the absence of the Tenant and provided a copy in evidence.

The Landlord submitted that he considered the date that the tenancy ended as the date that the Tenant gave "notice". The Landlord testified that the Tenant paid rent for October, 2010, but did not pay rent for the months of November or December, 2010. The Tenant had overpaid October's rent, and had made other overpayments over the term of the tenancy. The Landlord therefore seeks \$1,260.00, which is unpaid rent for November and loss of revenue for December, 2010, after taking into consideration the credit on the Tenant's rent payments. The Landlord provided an accounting of what the Tenant paid throughout the term of the tenancy.

Monthly rent did not include utilities and the Tenant was responsible for 6.82% of the gas bill, pursuant to the terms of the tenancy agreement. The Landlord stated that the Tenant had fallen on hard times so the Landlord was being patient with respect to

payment of utilities. He stated that the monthly utilities were not a lot of money, but added up to \$906.13 over the total term of the tenancy. The Landlord stated that he had previously filed an Application for Dispute Resolution seeking to recover the cost of the Tenant's outstanding utilities, but that his Application was dismissed with leave to reapply.

The Landlord testified that the Tenant did not clean the rental unit at the end of the tenancy and did not shampoo the carpets. The Landlord testified that there were a few dings in the walls that had to be repaired, and that the Tenant had left garbage at the rental unit that had to be hauled away. The Landlord testified that he had the rental unit re-painted and that the painter charged \$50.00 to repair the dings in the walls. The Landlord provided a copy of the painter's invoice in evidence, along with copies of the invoice for the carpet cleaner (\$99.68), house cleaner (\$289.92: 4.75 hours \$22.00 per hours plus HST), cost of junk removal (\$67.20), and dump fees (\$6.00).

The Landlord testified that he made the following attempts to find the Tenant's current residential address:

- Performed a credit check to find current landlord's name, but there was none noted;
- Called personal contact numbers provided by the Tenant at the beginning of the tenancy, but got no cooperation; and
- Called employer listed on Tenant's application for tenancy, but he no longer worked there.

The Landlord testified that he hired a skip tracer and negotiated a lower rate. The Landlord seeks to recover the cost of the skip tracer (\$197.12), and provided a copy of the invoice in evidence.

Analysis

The Landlord provided a copy of the Tenant's undated handwritten notice, which states:

"Bill you Have my last month's Rent ILL Be out on the 4th of November. ILL get your hot water Bill payed off before I go Thanks Chris"

(reproduced as written)

In order to be effective, Section 52 of the Act requires a notice to end a tenancy to be signed and dated by the landlord or tenant giving the notice, and to give the address of the rental unit. I find that the Tenant's notice is not an effective notice because it is not dated and does not give an address of the rental unit.

Section 45(1) of the Act states:

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.

The Landlord testified that he received the Tenant's notice on or about October 4, 2010. In this case, rent is payable on the first day of each month, so the earliest effective date of the end of tenancy (had the notice been effective) would have been December 31, 2010. The Landlord bases his application for loss of revenue on this fact, however the Landlord also has a responsibility under Section 7(2) of the Act to mitigate or minimize his loss by making reasonable attempts to re-rent the rental unit as quickly as possible. The Tenant moved out of the rental unit on November 4, 2010, and the Landlord did not provide sufficient evidence of his attempts to re-rent the rental unit and therefore his

application for loss of revenue for the month of December is dismissed. I find that the Landlord is entitled to unpaid rent for the month of November in the amount of **\$435.00**, pursuant to the Landlord's calculations (\$1,260.00 less \$825.00).

The Tenant's notice included a reference to unpaid utilities. I accept the undisputed testimony of the Landlord that the Tenant did not pay for his share of utilities at the end of the tenancy. I allow the Landlord's claim for this portion of his application in the amount of **\$906.13**.

I accept the Landlord's undisputed testimony and documentary evidence with respect to the cost of cleaning the rental unit, disposing of garbage, and repairing dings in the walls, in the total amount of **\$512.80**.

Section 67 of the Act provides that that the Director may determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party **not complying with the Act, regulations or tenancy agreement**. There is no provision in the Act, regulations or tenancy agreement that a tenant must provide a landlord with a forwarding address at the end of a tenancy. The Act does not provide for recovery of the cost of locating a tenant and therefore, I dismiss this portion of the Landlord's claim.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit of **\$442.50** towards partial satisfaction of his monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the **\$50.00** filing fee from the Tenant pursuant to the provisions of Section 72(1) of the Act.

The Landlord has established a monetary award, calculated as follows:

Unpaid rent	\$435.00
Cleaning and repairs	\$512.80
Recovery of the filing fee	\$50.00
Subtotal	\$1,903.93
Less security deposit	- \$442.50
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,461.43

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of **\$1,461.43** against the Tenant. This Order must be served on the Tenant and 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: August 31, 2011.

Residential Tenancy Branch