



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for unpaid rent, a monetary Order for damage to the rental unit; to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord was advised that his application for compensation for damages to the rental unit was being refused, pursuant to section 59(5)(a) of the *Residential Tenancy Act* (*Act*), because his Application for Dispute Resolution did not provide sufficient particulars of his claim for compensation for damages, as is required by section 59(2)(b) of the *Act*. In reaching this conclusion, I was strongly influenced by the absence of a list of alleged damages that show how much compensation the Landlord is claiming for each damaged item. I find that proceeding with the Landlord's claim for damages at this hearing would be prejudicial to the Tenant, as the absence of particulars makes it difficult, if not impossible, for the Tenant to adequately prepare a response to the claims. The Landlord retains the right to file another Application for Dispute Resolution in which he claims compensation for damages to the rental unit.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on July 15, 2010; that the Tenant is required to pay monthly rent of \$550.00 on the first day of each month; that the Tenant paid a security deposit of \$275.00; that the Tenant was personally served

with a Ten Day Notice to End Tenancy on April 22, 2011, which required her to vacate by May 02, 2011; that the Tenant did not vacate until May 06, 2011; and that the Tenant did not provide the Landlord with a forwarding address, in writing.

The Landlord and the Tenant agree that the Tenant did not pay any rent for April or May of 2011.

The Witness stated that she spent 20 hours cleaning the rental unit,, which she did not believe was left in reasonably clean condition.

Analysis

Based on the undisputed evidence presented at the hearing, I find that the Tenant was required to pay monthly rent by the first day of each month and that the Tenant did not pay the \$550.00 in rent that was due on April 01, 2011.

Based on the undisputed evidence presented at the hearing, I find that this tenancy ended on May 02, 2011, pursuant to the Notice to End Tenancy for Unpaid Rent that was served to the Tenant, although the Tenant did not vacate on that date.

As the tenancy had not ended by May 01, 2011, I find that the rental agreement required the Tenant to pay rent on May 01, 2011, in spite of the fact the tenancy was ending on May 02,, 2011. As she is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$550.00 in rent for April and \$550.00 in rent for May.

I find that the Landlord is entitled to the rent payment, regardless of the condition of the rental unit at the end of the tenancy. I therefore make no finding on the condition of the rental unit.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,150.00, which is comprised of \$1,100.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit in partial satisfaction of this claim. Based on these determinations I grant the Landlord a monetary Order for the balance of \$875.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: September 27, 2011.

Residential Tenancy Branch