



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND; MNDC, MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for loss of revenue and damages; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that on June 28, 2011, the Notice of Hearing documents and copies of the Landlord's evidence were mailed to the Tenant, via registered mail, to the forwarding address provided by the Tenant on the move-out Condition inspection Report. The Landlord provided a copy of the receipt and tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly 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. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for the cost of cleaning the rental unit at the end of the tenancy and for loss of income for the period of June 1 – 14, 2011?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

The Landlord provided a copy of the tenancy agreement in evidence. The tenancy agreement is a fixed term lease, set to expire on July 31, 2011. Monthly rent is \$1,095.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$547.50 at the beginning of the tenancy.

The Landlord's agent testified that on April 30, 2011, the Tenant gave the Landlord written notice that she would be ending the tenancy effective May 31, 2011. The Landlord immediately advertised the rental unit in two local newspapers and on a popular on-line site, and continued to renew advertisements until the unit was re-rented on June 15, 2011. The Landlord provided documentary evidence to support this.

Tenant moved out on May 31, 2011 and a Condition Inspection report was conducted with both parties present. The Tenant agreed to certain deductions to be made from her security deposit: carpet cleaning; drape cleaning; general cleaning; and liquidated damages in the amount of \$300.00. The Landlord provided a copy of the Condition Inspection Report and an agreement that the Landlord could make those deductions.

The Landlord was not able to re-rent the rental unit until June 15, 2011, and seeks loss of income in the amount of \$511.00 (prorated) for June 1 – 14, 2011.

Analysis

If a tenant ends a lease before its term, the tenant may be held responsible for paying liquidated damages to a landlord if there is a clause in the tenancy agreement allowing for liquidated damages in a certain amount, and if the liquidated damages are found not to be a penalty but a true estimate of the administrative costs of re-renting the rental unit. In this case, the tenancy agreement does include a provision for liquidated damages. I find that \$300.00 is a reasonable amount to compensate the Landlord for administrative costs in re-renting the rental unit and not a penalty.

Based on the Landlord's agent's undisputed testimony and the documentary evidence provided, I am satisfied that the Tenant agreed to the following charges against the security deposit:

Cost of carpet cleaning	\$67.20
Cost of drapery cleaning	\$67.20
Cost of general suite cleaning	\$78.40
Liquidated damages	<u>\$300.00</u>
Total agreed to by Tenant	\$512.80

I find that the Landlord also suffered loss of income as a result of the Tenant breaching the lease agreement. I further find that the Landlord made reasonable efforts to mitigate their loss. Therefore, I allow the Landlord's claim in the amount of \$511.00 for loss of income for June 1 – June 15, 2011.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim. 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.

The Landlord has established a monetary award as follows:

Loss of revenue	\$511.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,073.80
Less security deposit	- <u>\$547.50</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$526.30

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of \$526.30 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: September 15, 2011.

Residential Tenancy Branch