

DECISION

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

Introduction

This is the Landlord's application for a Monetary Order for damages to the rental unit, unpaid rent and loss of revenue; compensation for damage or loss; 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 the Notice of Hearing documents were mailed to the Tenants, via registered mail, to the forwarding address provided by the Tenant on July 20, 2011. The Landlord provided the tracking numbers for the registered documents along with Canada Post Tracking information.

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 his absence.

Issues to be Decided

- Is the Landlord entitled to a monetary award pursuant to the provisions of Section 67 of the Act?

Background and Evidence

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

The Landlord provided a copy of the tenancy agreement in evidence. Monthly rent was \$1,350.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$675.00 on January 8, 2010. The tenancy agreement is a one year lease, which indicates that the tenancy ended on January 31, 2011. The Landlord's agent testified that the Tenant entered into a subsequent fixed term tenancy with the same rent, which was due to end on January 31, 2012.

This tenancy began on February 1, 2010 and ended on or about June 13, 2011. The Landlord's agent testified that the Tenant did not pay rent for June, 2011, so the Landlord's agent posted a 24 hour Notice to access the rental unit on June 13, 2011. When the Landlord's agent entered the rental unit on June 14, 2011, he found that the Tenant had moved out.

The Landlord's agent testified that the Tenant did not leave the rental unit in reasonably clean condition. The Landlord's agent testified that the Tenant damaged the rental unit by installing unapproved electrical wiring in the garage; causing multiple nail holes in the walls; breaking the closet door in one of the bedrooms. The Tenant also installed shelving in the garage without the Landlord's permission. The Landlord seeks a monetary award for cleaning and repairs in the amount of \$1,250.00. The Landlord provided a copy of a Condition Inspection Report and a quotation for repair, in support of this portion of its application.

The Landlord also seeks unpaid rent for the month of June, 2011, and loss of rent for the remainder of the term of the tenancy (\$10,800.00). The Landlord's agent testified that the strata corporation in the rental building would not allow the Landlord to re-rent the rental unit after the Tenant moved out. The Landlord provided copies of e-mails and the minutes from a Strata meeting held June 29, 2011, in evidence.

Analysis

This is the Landlord's claim for damage or loss and therefore the Landlord has the burden of proof to establish its claim on the civil standard, the balance of probabilities.

To prove a loss and have the Tenant pay for the loss requires the Landlord to satisfy four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Tenant in violation of the Act, regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Landlord did not provide a copy of the tenancy agreement that was entered into after the initial lease expired and therefore has not provided sufficient evidence to support its claim for loss of revenue to January 31, 2012. However, I accept the affirmed testimony of the Landlord's agent that the Tenant did not pay rent for June,

2011, and did not give written notice to end the tenancy. Therefore, I find that the Landlord has established an award for unpaid rent for June and loss of revenue for July, 2011, in the total amount of **\$2,700.00**.

The Landlord provided a copy of the inspection sheet for the beginning and the end of the tenancy and photographs of the rental unit at the end of the tenancy. Based on the testimony of the Landlord's agent and the documentary evidence provided, I am satisfied that the Tenant did not shampoo the carpets at the end of the tenancy, caused damage to a closet door, left some marks on some walls, and left behind attached shelves in the garage. The quotation provided in evidence includes the cost of caulking the bathtub and shower tiles, relighting the fire place's pilot light, which are items that either are not the Tenant's responsibility. It also includes hammering the wooden planks to a fence and the Landlord's agent did not provide sufficient evidence that the Tenant had damaged a fence. There was no breakdown for the costs in the quotation and no invoice(s). Therefore, I allow a nominal amount for this portion of the Landlord's claim in the amount of **\$200.00**.

The Landlord has been partially successful in its application and therefore I find that the Landlord is entitled to recover **\$50.00** of the \$100.00 filing fee from the Tenant.

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

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

Unpaid rent and loss of revenue	\$2,700.00
Shampooing carpet and repairing damages	\$200.00
Partial recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,950.00
Less security deposit	<u>- \$675.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,295.00

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of **\$2,295.00** for service upon 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: October 31, 2011.

Residential Tenancy Branch