



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD and FF

Introduction

This application was brought by the landlords on December 13, 2011 seeking a monetary award for unpaid rent and NSF fees, cleaning of the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing in person by the landlord and witness at his place of employment on December 16, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to a monetary award for the claims for unpaid rent, NSF fees, and filing fee, and authorization to retain the security deposit in set off against the balance owed.

Several factors be taken into account in assessing claims in damages: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenant, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable.

Background, and Evidence

This tenancy began on March 1, 2010 and ended on May 1, 2011 pursuant to a Mutual Agreement to End Tenancy. Rent was \$1,450 per month and the landlord holds a security deposit of \$725 paid at the beginning of the tenancy.

During the hearing, the attending landlord stated that the tenant had refused to provide him with a forwarding address and he therefore served the Notice of Hearing in person at the tenant's place of employment as verified by a witness email submitted into evidence.

The landlord stated that he had not served the tenant with a package of evidence provided to the Branch on February 15, 2012 as required under Rule 3.5 under the Rules of Procedure.

Included in that evidence were copies of NSF rent cheques dated November 1, 2010 and January 6, 2011. The landlord stated that he had delayed ending the tenancy until the Mutual Agreement for May 1, 2011 because he wanted to give the tenant an opportunity to catch up on the rent.

The landlords claim \$1,450 unpaid rent for November 2010 and \$1,450 unpaid rent for January 2011, plus \$7 in NSF fees for each of the two months.

The landlords also claim \$235 for general cleaning and \$280 for cleaning oil from the tenant's parking area.

Analysis

Section 26 of the Act provides that tenant's must pay rent when it is due. While the tenant does not appear to have been provided with copies of the NSF cheques submitted with the evidence to the branch, I find that he would be well aware from the landlords' application form and his own bank records that he had defaulted on the rent, and that an NSF fee is applied. Therefore, I find that the landlord is entitled to an award for the two months' rent at \$1,450 plus two \$7 NSF fees for a total of \$2,914 as claimed.

As to the landlords' claim for \$235 for general cleaning, they have submitted an estimate from a professional service estimating the cost of cleaning the two-bedroom, two-bathroom as taking two staff members three hours at \$70 per hour, a total of \$210 with added tax. As the landlord's did the work themselves, and as the landlords have submitted no evidence of the condition of the rental unit at the end of the tenancy and in the absence of any evidence to the contrary from the tenant, I will grant only a nominal award of \$75 on this claim.

On the claim for cleaning oil off of the parking space for \$280, this again was based on an estimate, but the landlords did the work themselves. Again, in the absence of any documentary evidence of the oil puddle, I dismiss this claim.

Given the failure of the landlords to serve the tenant with the evidence package, I decline to award the filing fee.

As authorized under section 72 of the *Act*, I hereby order that the landlords are entitled to retain the tenant's security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlords an amount calculated as follows:

Unpaid rent for November 2010	\$1,450.00
NSF fees (2 x \$7)	14.00
General cleaning	75.00
Filing fee	<u>50.00</u>
Sub total	\$3,039.00
Less retained security deposit (No interest due)	<u>- 750.00</u>
TOTAL	\$2,289.00

Conclusion

In addition to authorization to retain the tenant's security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$2,289.00 for service on the tenant.

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: February 22, 2012.

Residential Tenancy Branch