



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes:

MND, MNR, MNSD, MNDC, FF

Introduction

This reconvened hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit, unpaid rent, compensation for damage or loss under the Act, 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.

My interim decision issued on December 14, 2011, Ordered the tenant to provide proof of service by way of his registered mail receipts for documents served to the landlord; the tenant did not supply that evidence, nor did the tenant attend this reconvened hearing. During the first hearing the parties had confirmed their correct address and copies of the Notice of Hearing were subsequently sent to each of the parties, by regular mail, to the addresses provided.

The tenant applied requesting compensation in the sum of \$24,999.99 as compensation for damage or loss under the Act, return of the deposit and to recover the filing fee costs. As the tenant failed to attend this reconvened hearing after being served Notice of the hearing, I have dismissed his application.

A determination was made at the initial hearing, as to what portions of the landlord's claim I would consider.

Issues to be Decided

Is the landlord entitled to compensation in the sum of \$300.00 for washing machine damage and \$300.00 compensation for refrigerator damage?

Is the landlord entitled to compensation in the sum of \$1,950.00 for unpaid rent?

Is the landlord entitled to the filing fee costs?

Background and Evidence

The tenancy commenced on October 15, 2011 and was a fixed-term ending October 2012. Rent was \$1,950.00 per month, a deposit in the sum of \$975.00 was paid.

On November 16, 2011, the tenant was given a 10 Day Notice Ending Tenancy for Unpaid Rent. The landlord was able to confirm with the police, that by November 29, 2011, the home had been vacated. The tenant had not paid rent owed in November, 2011.

The tenant did not provide a forwarding address; the landlord served the tenant with Notice of his hearing once he received the tenant's application, which included an address for service.

The landlord stated the tenant placed the reffridgerator outside and caused damage to the unit. The condition inspection completed at the start of the tenancy had shown there was a scratch on the door, but now the fridge is no longer suitable for indoor use, as it has suffered weather damage. The landlord has claimed \$300.00 for replacement costs.

The tenant disassembled the washing machine, in an attempt to make a repair. Once he realized he could not fix the machine he called the landlord, who went to the home. The landlord spoke with an appliance repairperson who said putting the machine back together would cost more than a new machine. The landlord was able to find a used machine for \$200.00 and is claiming compensation in that lesser amount.

Analysis

Based on the landlord's testimony and, in the absence of the tenant, who was served with Notice of this reconvened hearing, I find that the landlord is entitled to compensation for unpaid November, 2011, rent in the sum of \$1,950.00.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of verification of the amounts claimed, I find, on the balance of probabilities, that the landlord is entitled to a nominal amount for damage to the reffridgerator and washing machine replacement in the sum of \$50.00 and \$25.00 respectively. I have accepted the landlord's testimony that that the tenant did place the fridge outside, causing damage. I have also accepted the testimony that the tenant

disassembled the washing machine, did not reassemble them machine and that the landlord purchased a used machine.

The landlord will retain the \$975.00 deposit in partial satisfaction of the claim.

I find that the landlord is entitled to filing fee costs in the sum of \$50.00.

Conclusion

The landlord is entitled to compensation in the sum of \$2,070.00 comprised of unpaid rent, damage to the rental unit and filing fee costs.

The landlords will retain the deposit in the sum of \$975.00 in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for \$1,095.00. 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.

The tenant's claim is dismissed.

The balance of the landlord's claim considered on February 7, 2012, is dismissed.

The balance of the landlord's application considered on December 14, 2011, was declined with leave to reapply.

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: December 14, 2011.

Residential Tenancy Branch