



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for compensation for a loss of rental income, for cleaning and repair expenses, for liquidated damages, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord's application named two parties as Tenants, namely C.L. and T.P. At the beginning of the hearing, the Tenant, C.L., confirmed that the forwarding address she provided to the Landlord at the end of the tenancy was solely for her, that T.P. moved out prior to the end of the tenancy and she was unaware of T.P.'s whereabouts. In the circumstances, I find that T.P. has not been served with the Landlord's Application for Dispute Resolution and Notice of Hearing (the "hearing package") as required by s. 89 of the Act and accordingly the style of cause is amended by removing him as a Party.

The Tenant also claimed at the beginning of the tenancy that she had not received all of the Landlord's evidence. The Landlord's agent said she sent some photographs and other documentary evidence to the Tenant's forwarding address by registered mail. The Parties agree that although the Landlord served the Tenant with its hearing package by registered mail to her forwarding address, the Tenant instead picked up the hearing package from the Landlord's place of business on December 22, 2011. The Tenant said she moved into a new residence on January 1, 2012 but admitted that she did not advise the Landlord that her mailing address or address for service had changed. In the circumstances, I find that the Tenant was served with the Landlord's evidence package as required by s. 88 of the Act.

Issue(s) to be Decided

1. Is the Landlord entitled to compensation and if so, how much?
2. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on May 1, 2009. On June 24, 2011, the Parties entered into a one year fixed term tenancy which was to expire on June 30, 2012, however the tenancy

ended on November 30, 2011 when the Tenant moved out. Rent was \$1,340.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$650.00 at the beginning of the tenancy.

The Tenant gave the Landlord written notice on October 31, 2011 that she was ending the tenancy on November 30, 2011. The Landlord's agent advertised the rental unit for availability December 1, 2011 at a reduced rate of rent but it was not rented for that month. The Landlord then decided to sell the rental property. Consequently, the Landlord amended its claim for a loss of rental income from 7 months to one month (ie. for December 2011). The Landlord also sought to recover liquidated damages of \$300.00 pursuant to a clause in the Parties' tenancy agreement whereby the Tenant(s) agreed to pay the Landlord's estimated expenses to re-rent the property in the event they ended the fixed term tenancy early. The Landlord further sought to recover a late payment fee of \$25.00 with respect to November 2011. The Tenant did not dispute these claims.

The Parties completed a move in condition inspection report on May 4, 2009. The Landlord's agent completed a move out condition inspection report on December 1, 2011 without the Tenant. The Landlord's agent claimed that the Tenant did not advise her until November 30, 2011 that she had already moved out however the Landlord's agent also admitted that she did not make any attempt prior to that time to arrange an inspection. The Landlord's agent said the Tenant did not leave the rental unit reasonably clean at the end of the tenancy and she sought general cleaning expenses of \$280.00. The Landlord's agent agreed to reduce this amount to \$260.00 because she acknowledged that the Tenant did not clean behind the refrigerator and stove only because she was instructed not to move them. The Landlord also sought to recover carpet cleaning expenses of \$112.00. The Tenant did not dispute these claims.

The Landlord's agent claimed that at the end of the tenancy a thermostat cover was missing and had to be replaced at a cost of \$19.98, a Carbon Dioxide and smoke detector had to be replaced at a cost of \$62.35, a closet door knob had to be replaced at a cost of \$3.49 and light bulbs had to be replaced at a cost of \$2.87. The Tenant did not dispute these claims.

The Landlord's agent withdrew claims for compensation for straightening a window (\$10.00), for replacing a downspout (\$20.00), for garbage removal (\$90.00), for labour to repair a closet (\$200.00) and for yard maintenance (\$150.00). The Landlord's agent also agreed to withdraw a claim for a replacement key (\$10.00) because the Tenant agreed to return it. The Landlord's agent further agreed to withdraw a claim for a fluorescent light cover (\$20.15) based on the Tenant's evidence that she removed it to change the light bulb and left it in good condition on a shelf in a closet of the rental unit at the end of the tenancy.

Analysis

Given the evidence of the Parties, I find that the Landlord has made out a monetary claim for the following items:

Loss of rental income (Dec. 2011):	\$1,430.00
Liquidated Damages:	\$300.00
Late Payment fee:	\$25.00
General Cleaning:	\$260.00
Carpet Cleaning:	\$112.00
Thermostat Cover:	\$19.98
CO2 and Smoke Detector:	\$62.35
Closet Door Knob:	\$3.49
Light Bulbs:	<u>\$2.87</u>
Subtotal:	\$2,215.69

Given that the Landlord's claim was reduced substantially due to the withdrawal of a loss of rental income for the unexpired term of the tenancy, I find that it would not be an appropriate case to order that the Tenant bear the cost of the \$100.00 filing fee paid by the Landlord for this proceeding and instead I award the Landlord one-half that amount or \$50.00. Consequently, I find that the Landlord is entitled to a total monetary award of \$2,265.69. I Order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's security deposit of \$650.00 in partial payment of the monetary award. The Landlord will receive a Monetary Order for the balance owing of \$1,615.69.

Conclusion

A Monetary Order in the amount of **\$1,615.69** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: February 20, 2012.

Residential Tenancy Branch