



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This is the Landlords' application for a Monetary Order for unpaid rent, damages to the rental unit and compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; to retain the security deposit in partial satisfaction of their monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlord gave affirmed testimony at the Hearing.

Preliminary Matters

Service

The Landlord testified that the Tenant moved out of the rental unit at the end of October, 2011, without giving due notice that she was ending the tenancy. The Landlord stated that on November 2, 2011, the Landlords received a letter indicating that the Tenant was ending the tenancy on October 31, 2011. The Landlord testified that the Tenant's letter (the "letter") was sent by registered mail on October 31, 2011. The Landlords provided a copy of the letter in evidence, along with a copy of the envelope in which it was contained.

The Landlord testified that on November 15, 2011, she mailed the Notice of Hearing documents and copies of her documentary evidence, via registered mail, to the Tenant at the return address noted on the envelope containing the letter. The Landlords provided a copy of the registered mail receipt and tracking number in evidence.

Section 90 of the Act deems documents given or served by mail to be received 5 days after mailing the documents. A party cannot avoid service by refusing to accept delivery.

Based on the Landlord's testimony and the documentary evidence provided, and pursuant to the provisions of Section 71(2)(b) and (c) of the Act, I find that the Tenant was sufficiently served with the Notice of Hearing documents on November 20, 2011. Despite being deemed 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

- Are the Landlords entitled to a monetary award pursuant to the provisions of Section 67 of the Act?

Background and Evidence

The Landlord gave the following testimony and evidence:

- This tenancy began on September 1, 2006. Monthly rent was \$775.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$387.50 on August 7, 2006. A copy of the tenancy agreement was provided in evidence.
- The Tenant abandoned old, broken furniture at the rental unit. She also left a lot of garbage at the rental unit and did not do any cleaning before she left.
- The Tenant broke two windows at the rental unit.
- The Tenant did not return the key to the post box.
- The Landlords provided 44 photographs in evidence in support of their claim for damages.
- The Landlords provided receipts for the cost of cleaning the rental unit; renting a truck to dispose of the garbage; dump fees; and the cost of hiring a man to dispose of the garbage.
- The Landlords estimate that the cost to replace the windows will be \$150.00 (\$75.00 per window).
- The Landlords estimated on their application that the cost to replace the postal key would be \$30.00. The Landlord testified that she replaced the postal key a couple of days ago for \$28.00.

The Landlords seek a monetary award, calculated as follows:

Unpaid rent for November, 2011	\$775.00
Cost of cleaning (20 hours @\$12.00 per hour)	\$240.00
Cost of renting truck to dump garbage	\$250.37
Dump fees (\$60.00 + \$5.80 + \$89.10 + \$110.00 + \$143.00)	\$407.90
Cost of labour to remove garbage (20 hours @ \$10.00 per hour)	\$200.00
Estimate to replace windows (2 x \$75.00)	\$150.00
Cost of replacing postal key	<u>\$28.00</u>
TOTAL claim	\$2,051.27

Analysis

Section 45 of the Act provides that a Tenant may end a month-to-month tenancy by

giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice.

Section 37 of the Act requires a tenant to leave a rental unit reasonably clean and undamaged except of reasonable wear and tear at the end of the tenancy.

Section 67 of the Act provides that if damage or loss results from a party not complying with the Act, the director may determine the amount of, and order the party to pay, compensation to the other party.

Based on the undisputed testimony of the Landlord and on the documents and photographs provided in support of the Landlords' claim, I find that the Landlords have provided sufficient evidence that they suffered a loss as a result of the Tenant's failure to comply with the provisions of Sections 45 and 37 of the Act. I also find that the Landlords have provided sufficient evidence to support the amounts that they are claiming for those losses. With respect to the cost of replacing the windows, I find that \$75.00 per window is a reasonable amount.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit and accrued interest towards partial satisfaction of their monetary award. Interest in the amount of \$12.54 has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

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

Monetary award as proven	\$2,051.27
Recovery of filing fee	\$50.00
Subtotal	\$2,101.27
Less security deposit and accrued interest (\$387.50 + \$12.54)	- \$400.04
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$1,701.66

Conclusion

I hereby provide the Landlords a Monetary Order in the amount of **\$1,701.66** for service upon the Tenant. This Order 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: February 06, 2012.

Residential Tenancy Branch