



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, to keep all or part of the security deposit, money owed or compensation due to damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began March 1, 2009 with monthly rent of \$1800.00 and the tenant paid a security deposit of \$900.00.

At the start of the hearing the tenant requested to make a recording of the hearing and was advised that she could not. It was explained to the tenant that to record a hearing a request had to be made prior to the hearing and that a court reporter had to be hired and transcripts provided to the other party and the branch.

The landlord testified that the tenant vacated the rental unit in mid August and as she had moved out of the province was not available to complete a move-out inspection with the landlord. The tenant stated that she was in fact locked out by the landlord on August 14, 2011.

The landlord testified that the tenant did not pay the August 2011 and after she was served with a notice to end tenancy for unpaid rent, vacated the rental unit. The tenant testified that the August 2011 rent had been paid. The tenant stated that due to a flood in the rental unit the landlord had filed an insurance claim and was awarded 2 month's rent compensation and that this money would be credited back to the tenant. The landlord stated that they had hoped to get the compensation from the insurance company but had not been able to secure this money therefore the tenant had the

responsibility to pay the August 2011 rent in the amount of \$1800.00. The landlord is seeking \$1800.00 for this portion of their claim.

The landlord stated that the tenant left the rental unit with \$746.38 owing in unpaid utility bills. The tenant acknowledged that the unpaid utilities were her responsibility. The landlord is seeking \$746.18 for this portion of their claim.

The landlord stated that when the tenant vacated the rental unit that the doors to the rental unit had been left wide open. The landlord stated that a neighbour had alerted them that the property was left unsecured when the tenant vacated. The landlord stated that because the doors were left open mice got into the house as well as an unknown animal with paws. The landlord stated that the carpet smelled and needed to be cleaned because of this.

The tenant stated that she had not left the doors open as the landlord claimed and that the carpets did not require cleaning as they were only 2 months old, having been replaced during the renovations in June. The landlord is seeking \$197.12 for this portion of their claim.

The landlord stated that the tenant left numerous cast off items in the rental unit and the landlord had to hire a junk removal company to haul these items to the dump. The tenant stated that most of the items that the landlord refers to were items left behind by the last tenant. The tenant maintained that the landlord had advised her to stack the items left behind along the fence which is what the tenant did. The landlord is seeking \$168.40 for this portion of their claim.

The landlord stated that when they took possession of the rental unit they found it over run with mice. The tenant challenged this testimony by wanting to know where the report was for the infestation and the landlord referred to the receipt from the pest control company for 'mice control'. The landlord is seeking \$196.00 for this portion of their claim.

The landlord stated that the tenant did not clean the rental unit and left cast off items in the rental unit. The landlord referred to photos submitted into evidence that show the dirty oven and freezer and cast off items. The tenant countered the landlord's claim by stating that the items left in the rental unit had been left by a previous tenant. The tenant also alluded to being locked out of the rental unit by the landlord on August 14, 2012 and not being provided access to clean.

The landlord stated that during the time of the renovations that a steel box had been rented and brought to the property for the tenant to secure her personal belongings in. The landlord stated that they had intended on the tenant being able to recoup this expense through her renter's insurance but as the tenant had no insurance the landlord was stuck with the bill. The tenant stated that the landlord had told her that the bin was being provided for the tenant at the landlord's expense due to the renovations in the rental unit that were a result of the flood.

The landlord stated that the tenant's son had a hockey net set up by the corner of the garage and had damaged the garage door that had been newly installed in February 2011 when shooting hockey pucks at the net. The landlord stated that the tenant had initially denied this but later admitted that this was the cause of the damage.

The tenant stated that the landlord was not being truthful and that for the entire time her parent's camper trailer had been parked in front of the door so it could not have been damaged by her son. The tenant maintained that when she vacated the rental unit the garage door was in perfect condition and then went on to claim that the landlord had damaged the door on purpose so that he could blame the tenant. The tenant then commented that she felt the landlord was stealing from the tenant by making this claim.

The landlord in this application is seeking \$4543.97 compensation for the following:

- Unpaid Rent - \$1800.00
- Unpaid Utilities - \$746.38
- Carpet Cleaning - \$197.12
- Junk Removal - \$168.40
- Pest Control - \$196.00
- Cleaning - \$112.00
- Steel Box Rental – \$323.96
- Garage Door - \$1950.11

Both parties repeatedly refuted one another's testimony during the hearing and accused the other of being untruthful.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for unpaid rent, damages and cleaning costs.

I accept the landlord's testimony that the August 2011 rent is unpaid and although the tenant believes this amount to be paid through the insurance claim, as the insurance company did not compensate the landlord, the rent was still due and payable. Therefore the landlord is entitled to \$1800.00 for unpaid rent.

The tenant acknowledged in this hearing that the utilities were unpaid and her responsibility, therefore the landlord is entitled to \$746.38 for unpaid utilities.

In regards to the landlord's claim for carpet cleaning, junk removal, pest control and cleaning, I have accepted from the photographic evidence and move out condition inspection report, that cleaning was required in the rental unit after the tenant had

vacated. I find that the landlord is entitled to the following limited amounts: carpet cleaning \$197.12, junk removal \$25.00, pest control \$196.00 and cleaning \$112.00.

In regards to the rental of the steel box, I find that this item was supplied to the tenant by the landlord because of the renovations in the rental unit due to a flood. If the flood was in fact the result of a 3rd parties negligence, the landlord may seek compensation from that party for this amount. I do not find it reasonable for the tenant to reimburse the landlord this portion of their claim therefore it is dismissed without leave to reapply.

In regards to the landlord's garage door, I accept that the garage door was damaged during the time of this tenancy however as the landlord has not suffered a financial loss in regards to the repair of the garage door, this portion of the landlord's application is dismissed with leave to reapply.

Accordingly I find that the landlord is entitled to a monetary order for \$3076.50.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$3076.50 in unpaid rent, damages and cleaning costs. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$900.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2226.50**.

If the amount is not paid by the tenant(s), 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: March 19, 2012

Residential Tenancy Branch