



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for money owed or compensation due to damage or loss, to keep all or part of the security deposit 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 fixed term tenancy began September 1, 2011 with monthly rent of \$1075.00 and the tenant paid a security deposit of \$537.50. The tenancy has an effective end date of August 31, 2012.

The landlord testified that on September 12, 2011 the tenant gave the landlord written notice that he would be seeking a larger rental unit effective October or November 1st 2011. The landlord stated that the tenant vacated the rental unit September 30, 2011.

The landlord stated that they advertised the rental unit on 3 web site, showed the rental unit to least 10 prospective tenants and then had to run credit reports and do reference checks on any tenants that expressed interest in the rental unit. As a result of the time and effort it took the landlord to re-rent the unit, the landlord in this application is seeking \$537.50 in liquidated damages which are noted at #5 of the signed tenancy agreement.

The tenant testified that the landlord could be allowed part but not all of their claim. The tenant maintained that 'Canadian law' must be enforced today and that 'Canadian law' does not allow for a father and daughter to live in a bachelor suite together; the tenant

was advised that the hearing today was under the jurisdiction of the Residential Tenancy Act.

The tenant maintained that the rental unit was not shown very many times and the landlords refuted this testimony by stating that the rental unit was typically shown when the tenant was not home. The tenant stated that he went to the landlord on September 20, 2012 to tell them he would stay in the rental unit and was told that the unit had already been rented. The tenant stated that he understood that he had signed a fixed term tenancy agreement with a liquidated damages clause but that it was not his fault that he had to break the lease.

It should be noted that at the 10 minute mark of the hearing the tenant's phone became very garbled and then disconnected from the hearing.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, 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 money owed or compensation due to damage or loss and to keep all or part of the security deposit.

I accept the landlord's testimony that the landlord spent a substantial amount of showing the rental unit to multiple prospective tenants and that there was a significant amount of paperwork for the landlord to process in the re-renting of this unit. Therefore the landlord is entitled to their claim of \$537.50 for liquidated damages.

Accordingly I find that the landlord is entitled to a monetary order for \$537.50.

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 \$537.50 in liquidated damages. 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 \$537.50 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$50.00**.

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: April 4, 2012

Residential Tenancy Branch