



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order to be allowed to retain the security deposit; and
3. An Order to recover the filing fee pursuant to Section 72.

Both parties appeared and were given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord is entitled to monetary order for compensation for unpaid rent, damage and/or loss and whether the landlord is entitled to recover the filing fee paid for this application and retain the security deposit.

Background and Findings

Monetary Order

Unpaid Rent, Damages, Cleaning

The landlord submits that the parties entered into a 6 month fixed term tenancy agreement ending February 29, 2012. However, due to her mother's illness the tenant wished to return to Ontario and wished to vacate the rental unit before the end of the fixed term. The tenant vacated on or about January 31, 2012 without paying February's rent. The tenant signed a condition inspection report agreeing the landlord could retain the \$450.00 security deposit in partial payment of replacing blinds which were damaged during her tenancy (\$240.00) and rent owing for February. The landlord testified that he was able to re-rent unit as of February 15, 2012 and he wished to reduce his claim to

seek only half of February's rent that is \$450.00 instead of the \$900.00 originally claimed.

The landlord is also seeking the \$350.00 "lease breaking fee" agreed to in paragraph 4 of the tenancy agreement entered into by the parties on June 28, 2011.

The tenant does not dispute the facts as set out by the landlord except to state that she believed the landlord was agreeable to her leaving and knew she had to vacate prematurely due to her mother's illness.

While the tenant may have had good reason to break her lease however this does not relieve her of her obligations under the contract she signed unless the landlord wished to waive those obligations. While the tenant says the landlord was agreeable to the early termination of the lease she has provided no evidence that the landlord agreed to waive his rights under the contract. When a tenant wishes to vacate a landlord has no ability to make the tenant remain, the only ability a landlord has is to make application to seek to enforce the contract. The landlord has brought t his application seeking to enforce it and based on the undisputed evidence of the landlord I find he is entitled to the sums claimed.

Filing Fees

As the landlord has been successful in his claim, I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Arrears for half of February	\$450.00
Lease breaking fee as agreed	350.00
Filing Fees for the cost of this application	50.00
Less Security deposit (no interest accrued)	-450.00
Balance due by the tenant to the landlord	\$640.00

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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 10, 2012.

Residential Tenancy Branch