



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC; MND; MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for damages and loss of revenue; to retain the security deposit in partial satisfaction of her monetary claim; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

- Is the Landlord entitled to a monetary award for loss of income from February 1 to 15, 2012?
- Is the Landlord entitled to a monetary award for damage to the rental unit?
- May the Landlord apply the security deposit in partial satisfaction of her monetary award?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. The tenancy agreement was a one year fixed term tenancy, which could continue on a month-to-month basis or for another fixed length of time after the one year had expired. This tenancy began on February 1, 2011.

Monthly rent was \$2,400.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$1,200.00 on January 27, 2011.

The parties agreed that the Tenants gave verbal notice to end the tenancy on January 2, 2012 and moved out of the rental unit on January 31, 2012.

There was no Condition Inspection Report completed at the beginning or the end of the tenancy.

The Landlord gave the following testimony and evidence:

The Landlord testified that she re-rented the rental unit effective February 15, 2012, for \$2,400.00 per month and that the new occupants paid pro-rated rent from February 15 to 29, 2012, in the amount of \$1,200.00. The Landlord submitted that the Tenants did

not provide due notice to end the tenancy and therefore she is seeking to recover her loss of income for February 1 to 14, 2012, in the amount of \$1,200.00.

The Landlord testified that the Tenants did not leave the rental unit reasonably clean, did not shampoo the carpets and that damaged the walls. She stated that she cleaned the rental unit and repaired the walls over a period of three days and that she seeks to be compensated in the amount of \$300.00. The Landlord provided photographs in evidence in support of her application.

The Tenants gave the following testimony:

The Tenants stated that they gave verbal notice to end the tenancy on January 2, 2012, which should have given the Landlord time to re-rent the rental unit for February 1, 2012. They stated that do not believe they should be responsible for paying loss of revenue.

The Tenants testified that they cleaned the rental unit at the end of the tenancy, with the exception of the stove. They denied damaging the walls and testified that there were marks on the walls when they moved into the rental unit.

Analysis

Section 44 of the Act provides the only ways that a tenancy can end. In the case of a tenant ending the tenancy, notice **must** be given no earlier than one month after the date the landlord receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. In the case of a fixed term tenancy, the end date may not be bore the date specified in the tenancy agreement as the end of the tenancy. Section 52 requires that a notice to end a tenancy **must** be in writing.

I find that in the absence of written notice from the Tenants, at least one clear month before the end of the tenancy, the Tenants did not provide the Landlord due notice to end the tenancy. I find that the Landlord made reasonable attempts to re-rent the property and that she is entitled to compensation for loss of revenue in the amount of **\$1,200.00**.

The Landlord did not comply with Sections 23 and 35 of the Act with respect to Condition Inspection Reports. The Tenants agreed that they did not leave the stove in a reasonably clean condition at the end of the tenancy and therefore I award the Landlord **\$50.00** for her labour to clean the stove. With respect to the remainder of the Landlord's damage claim, the Tenants dispute it and the Landlord did not provide sufficient evidence to support her claim.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of her monetary award. No interest has accrued on the security deposit.

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the **\$50.00** filing fee from the Tenants.

A Monetary Order accompanies this Decision, calculated as follows:

Loss of revenue	\$1,200.00
Compensation for cleaning the stove	\$50.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,300.00
Less security deposit	<u>- \$1,200.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$100.00

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of \$100.00 for service upon the Tenants. 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: April 13, 2012.

Residential Tenancy Branch