



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 Landlord's application for a Monetary Order for unpaid rent and damages to the rental unit; for compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

- Is the Landlord entitled to a monetary award?
- If so, may the Landlord set off the security deposit against his monetary award?

Background and Evidence

The Landlord gave the following testimony and evidence:

The Landlord inherited the tenancy from the prior landlord two years ago. Monthly rent was \$1,226.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$537.50 on January 1, 2008.

In April 2011, the Tenant broke a window in the rental unit. The Landlord had the window repaired and seeks to recover the cost of repairing the window from the Tenant. The Landlord provided a copy of the invoice for the glass replacement in evidence, in the amount of \$342.72.

The Tenant did not pay rent when it was due on February 1, 2012. On February 2, 2012, the Landlord issued and served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The Tenant moved out of the rental unit on February 12, 2012. The Landlord seeks unpaid rent in the amount of \$1,226.00, together with NSF fees or \$32.50 and late fees of \$25.00.

The Tenant left behind household items and garbage and did not leave the rental unit in a reasonably clean condition. The Landlord provided a copy of the invoice from the junk

removers in evidence in the amount of \$504.00. The Landlord seeks to recover the cost of the invoice, along with \$16.00 for his labour in cleaning up the rental unit (1 hour). The Landlord provided photographs of the rental unit, taken at the end of the tenancy, in evidence.

The Tenant gave the following testimony:

The Tenant stated that he agreed, for the most part, with the Landlord's submissions and apologized for leaving things behind and not cleaning properly. He stated that he did not intend to leave anything behind, but that he ran out of time.

The Tenant agreed that he was responsible for paying the cost of replacing the broken window.

He stated that he thought to junk removal bill seemed a little steep.

The Tenant also disagreed with the NSF charge. He stated that no cheque was given for February's rent and therefore there should be no NSF charge.

Analysis

Based on the testimony of both parties, I find that the Landlord is entitled to unpaid rent for the month of February in the amount of **\$1,226.00**, and recovery of the cost of replacing the window in the amount of **\$342.72**.

The Landlord provided a copy of the invoice for the junk removal, which indicates that the Landlord was charged \$450.00 plus \$54.00 HST for "4 guys & 2 ton truck" to remove and dispose of the household items. The photographs provided indicate that there were dishes, cleaning products and food stuffs in the cupboards; food in the fridge/freezer; a dresser, book shelves; clothing in the closets; books; a love seat; a fan; a vacuum cleaner; microwave; plants; Christmas decorations, office equipment and boxes left behind at the rental unit. I am satisfied that the amount charged was reasonable, and award the Landlord **\$504.00** for the removal of these items. Based on the photographs, it is also clear that the stove top, oven, bathroom and other surfaces were in need of cleaning. I find the Landlord's claim of **\$16.00** for his labour to be justifiable and allow this portion of his claim.

I dismiss the Landlord's claim for NSF and late fees. The regulations allow for these fees, but only if there is a provision for them in the tenancy agreement. The Landlord did not provide a copy of the tenancy agreement and therefore I find he has provided insufficient evidence to support this part of his claim.

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

Further to the provisions of Section 72 of the Act, the Landlord may apply the security deposit of \$537.50 towards partial satisfaction of his monetary award. Interest has accrued in the amount of \$8.06.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent	\$1,226.00
Window repair	\$342.72
Removal of items	\$504.00
Landlords labour for cleaning	\$16.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,138.72
Less security deposit	<u>- \$545.56</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,593.16

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of **\$1,593.16** 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: April 27, 2012.

Residential Tenancy Branch