



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for unpaid rent or utilities (compensation for damage or loss under the Act, Regulation or tenancy agreement) / retention of the security deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on August 1, 2011. Monthly rent of \$1,250.00 was payable in advance on the first day of each month, and a security deposit of \$625.00 was collected.

Arising mainly from her concern about the high cost of her hydro bill, by e-mail to the landlord dated January 20, 2012, the tenant gave notice to end tenancy at the end of January 2012. Subsequently, the tenant vacated the unit on January 31, 2012. Following inconclusive exchanges between the parties in regard to the scheduling of a move-out condition inspection, the landlord issued a "Notice of Final Opportunity to Schedule a Condition Inspection," proposing that the inspection take place at 2:00 p.m. on February 1, 2012. Ultimately, the landlord and the tenant's partner completed the move-out condition inspection on the date proposed. The landlord testified that he found the unit to be in satisfactory condition.

After advertising, the landlord testified that new renters were found for the unit effective March 1, 2012. The landlord testified that advertising was undertaken by way of craigslist, as well as a sign posted prominently in a window of the building, and via a

posting in the common area of the building. Despite the loss of rental income for the entire month of February 2012, the landlord confirmed during the hearing that his application for compensation is limited to retention of the security deposit, which is the equivalent of ½ month's rent, in addition to recovery of the filing fee.

During the hearing the tenant disputed the landlord's entitlement to retain the security deposit, claiming that the cost of hydro was unreasonably high, and claiming that there were certain disturbances which negatively impacted her during the tenancy.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 45 of the Act speaks to **Tenant's notice**, and provides in part:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 52 of the Act addresses **Form and content of notice to end tenancy**:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45(1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Based on the documentary evidence and testimony, I find that the tenant's manner of ending the tenancy does not comply with the above statutory provisions. I further find that the landlord undertook to mitigate the loss of rental income by undertaking in a timely fashion to advertise for new renters. Accordingly, I find that the landlord has established entitlement to retention of the full security deposit of \$625.00.

Further, as the landlord has succeeded with this application, I find that the landlord has established entitlement to recovery of the \$50.00 filing fee, and I therefore grant the landlord a monetary order for that amount.

Conclusion

The landlord is entitled to retain the security deposit of \$625.00.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$50.00. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court 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 17, 2012.

Residential Tenancy Branch