



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MNDC, MND, FF

Introduction

This hearing dealt with an application for dispute resolution under the Residential Tenancy Act (the “Act”) filed by the landlord seeking a monetary order for unpaid rent, for damage to the unit, and money owed or compensation for damage or loss, for authority to retain the tenant’s security deposit and to recover the cost of the filing fee from the tenant.

The landlord’s agent appeared and gave affirmed testimony.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by personal delivery on March 28, 2012 at the residential property.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act and the hearing proceeded in the tenant’s absence.

The landlord was provided the opportunity to present his evidence orally and in documentary form.

I have reviewed all oral and written evidence before me that met the submission requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

This tenancy began on October 1, 2010, and ended on March 29, 2012, monthly rent was \$700.00 and the tenant paid a security deposit of \$350.00 at the beginning of the tenancy.

The landlord's original monetary claim listed in his application was \$2000.00; however the landlord subsequently entered evidence which showed that his claim had been reduced to \$1012.50.

The landlord explained that the tenant had originally informed him of damage to the rental unit which he was led to believe would approximate \$2000.00. However at the final inspection, the damage was not as great.

Additionally, the tenant signed the document entitled "Security Deposit Report" (the "report") which listed the amount claimed by the landlord to be \$1012.50, for damages, cleaning and unpaid rent.

The tenant, by his signature, agreed that he owed this amount and that the landlord could retain the security deposit in partial satisfaction of the claim.

The landlord therefore stated that his total claim now is \$662.50, as the tenant agreed that his security deposit could be used.

The landlord submitted a copy of the report into evidence.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

In the absence of the tenant who was duly served, the landlord's evidence will be the preferred evidence.

In a claim for damage or loss under the Act or tenancy agreement, the claiming party has to prove four different elements:

First, proof that the damage or loss exists, **secondly**, that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement, **thirdly**, to establish the actual amount required to compensate for the claimed loss or to repair the damage, and **lastly**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed. In this case, the onus is on the landlord to prove damage or loss.

I find the landlord provided sufficient evidence of the damage and unclean state of the rental unit caused by the tenant and of unpaid rent owed by the tenant. In reaching this conclusion, I was persuaded by the tenant's signature on the security deposit report agreeing to the security deposit deduction and the responsibility of the other costs.

I therefore allow the landlord to retain the security deposit of \$350.00 and I find that the landlord has established his monetary claim for the balance due in the amount of \$712.50, which includes the filing fee of \$50.00.

Conclusion

I grant the landlord a monetary order in the amount of \$712.50 for his monetary claim.

I am enclosing the monetary order for \$712.50 with the landlord's Decision. This monetary order is a legally binding, final order, and it may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement should the tenant fail to comply with this monetary order.

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: May 29, 2012.

Residential Tenancy Branch