



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both the landlord and the tenant participated in the conference call hearing.

At the outset of the hearing, the tenant confirmed that he had received the landlord's evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Issues

There have been three previous dispute resolution hearings regarding this tenancy, all convened pursuant to applications by the tenant. In the third of these decisions, dated October 31, 2011, the Dispute Resolution Officer ("DRO") noted that the landlord submitted evidence that the previous two decisions, dated July 5, 2011 and August 8, 2011, had been set aside by the Supreme Court of British Columbia and remitted back to the Residential Tenancy Branch to determine whether the *Residential Tenancy Act* applies to this tenancy. In the October 31, 2011 decision, the DRO found that the landlord did not live in the accommodation and the Act applies. The DRO further found that the landlord wrongfully evicted the tenant on June 15, 2011.

In the hearing before me on May 15, 2012, the landlord indicated on her application that she filed judicial reviews that this was shared accommodations and lost, and she therefore was using the Residential Tenancy dispute resolution format to apply for her damages. Both the landlord and the tenant made reference to the previous decisions in this matter, and I informed the parties that I would review and consider those decisions.

I find that I am bound by the director's decision of October 31, 2011, in regard to the findings that I have jurisdiction under the *Residential Tenancy Act* to hear this matter, and that the landlord wrongfully evicted the tenant on June 15, 2011.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began at the end of February 2011, with monthly rent in the amount of \$400. There was no written tenancy agreement. The landlord did not do a move-in inspection with the tenant at the outset of the tenancy. The tenant did not pay rent for June 2011. The tenancy ended on June 15, 2011.

Landlord's Evidence

The tenant brought in cockroaches when he moved into the rental unit. The landlord brought in a pest control company on two occasions to deal with the cockroaches. The tenant destroyed the carpet, and the landlord had to replace it. The tenant did not return keys for the house or the door knob for his room. The landlord advertised the unit and attempted to re-rent it, but she was unable to re-rent until September 1, 2011 because of the cockroaches.

The landlord has claimed the following monetary amounts:

- 1) \$1200 in lost rent for June, July and August 2011;
- 2) \$266 for carpet replacement;
- 3) \$270 for pest control
- 4) \$53.74 for entrance locks and door knob

In support of her application, the landlord submitted a letter from a health inspector who attended the rental unit on June 16, 2011 and noted "foul musky odours" in the rental room. The landlord also submitted an invoice for a replacement carpet; a receipt for the entrance locks dated June 13, 2011 and a receipt for the door knob dated June 26, 2011; and photographs of cockroaches in the room, the carpet that was destroyed, and stains on the rental unit walls. The landlord did not submit rental ads or receipts for pest control. The landlord did not provide evidence of the age of the carpet that was replaced.

Tenant's Response

The landlord is grossly exaggerating the damages. The tenant believed that cockroaches may have come in to the rental unit in blankets from the moving truck when the tenant moved into the unit. The tenant acknowledged that he changed the lock to his room, but he left the original lock in the rental unit, so it was not necessary for the landlord to replace the door knob.

Analysis

Upon consideration of the evidence, I find as follows.

The landlord is entitled to recovery of rent for June 1 to June 14, 2011, in the amount of \$200. The landlord is not entitled to further compensation for lost revenue after that time, as the landlord ended the tenancy through her own actions on June 15, 2011. The landlord did not give the tenant an opportunity to clean or do repairs at the end of the tenancy. Further, the landlord failed to provide sufficient evidence, such as rental ads, to show that she took reasonable steps to re-rent the unit.

The landlord is not entitled to the amount claimed for carpet replacement, as she did not do a move-in inspection to establish the condition of the carpet at the outset of the tenancy, and she did not provide any evidence of the age of the carpet to account for depreciation.

The landlord is not entitled to the amount claimed for pest control, as she failed to provide sufficient evidence to establish that the tenant should be held responsible for the cockroaches. In most cases of pest infestations, it is very difficult to establish that a tenant is responsible for the infestation, and the landlord therefore must bear the extermination costs.

The landlord's receipt suggests that the landlord changed the door locks before the tenancy ended, and she is therefore not entitled to this cost. The landlord wrongfully ended the tenancy and did not allow the tenant access to his possessions, so the tenant could not have returned the door knob to the landlord. I therefore find that the landlord is not entitled to these amounts.

As the landlord's claim was mostly unsuccessful I find that she is not entitled to recovery of her filing fee for the cost of her application.

Conclusion

The landlord is entitled to \$200. The remainder of the landlord's application is dismissed.

I grant the landlord an order under section 67 for the balance due of \$200. This order may be 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: May 28, 2012.

Residential Tenancy Branch