



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MND, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, damage to the unit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matter

The landlord withdrew the portion of the claim for cleaning costs and has leave to reapply for those costs.

The portion of the claim for the future loss of rent was dismissed with leave to reapply, as the hearing was held prior to a possible loss for June rent revenue.

Mutual Agreement – Order of Possession

The parties agreed to the following:

- The tenants will vacate the unit by the end of the day;
- That the landlord is entitled to an Order of possession effective May 31, 2012.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid May, 2012, rent?

Is the landlord entitled to a monetary Order for damage to the unit?

Is the landlord entitled to filing fee costs?

Background and Evidence

The 1 year fixed term tenancy commenced on February 1, 2012. Rent is \$2,800.00 per month, due on the first day of each month. A deposit in the sum of \$1,400.00 was paid. A move-in condition inspection report was not completed. A copy of the tenancy agreement was supplied as evidence.

The landlord made the following claim:

Gas service regulator	600.00
May 2012 rent	2,800.00
	5,400.00

The tenants confirmed that they have not paid May, 2012, rent that was due.

The landlord stated that the tenants damaged the gas regulator by turning the gas service on without authority. A copy of an email from Fortis BC customer service, dated April 24, 2012, was supplied as evidence. The email indicated that a relight of appliances was required but when the Fortis technician arrived at the unit he noted the customer had turned on the gas. The regulator inside the home was damaged; the customer was advised a gas fitter would be required to repair the regulator.

The landlord submitted that only the tenants could have caused this damage to the regulator, as a result of them turning on the regulator without authorization. The amount claimed is an estimate that the landlord obtained; a copy of a professional estimate was not supplied as evidence.

The tenants agreed they attempted to turn on the gas service, but denied damaging the regulator.

The landlord stated the tenants added on a structure to the garage and the deck. The landlord expects to incur costs to remove these structures. No estimate of this cost was supplied as evidence, nor was any other evidence supplied outlining the extent of the building.

The tenants stated they are in the process of moving out and will remove the deck add-on. The tenants disputed the claim in relation to the garage as the landlord paid for the supplies and had given them permission to make the alterations. The landlord stated she had told the tenants the structure must be built to code and that it was not.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

Based on the acknowledgement of the tenants, I find that the landlord is entitled to compensation for unpaid May, 2012, rent in the sum of \$2,800.00; a monetary Order in that amount has been issued.

In relation to the balance of the claim for the gas regulator and removal of structures, I find that this portion of the claim is dismissed.

The landlord failed to provide any verification of the costs claimed. The monetary worksheet submitted by the landlord directs applicants to provide estimates or receipts from a source; the landlord did not provide any written estimates verifying the costs she claimed. The tenancy is about to end and the tenants are now aware that the landlord wishes to have the structure on the deck removed.

Further, it appears that the landlord authorized the tenants to complete work on the garage. As this construction service was included as a term of the tenancy, I find that the work on the garage does not fall within the jurisdiction of the *Act*.

Therefore, in the absence of verification of costs related to the deck, I dismiss that portion of the claim.

I find that the landlord's application has merit and that the landlord is entitled to recover the one half of the filing fee from the tenants for the cost of this Application for Dispute Resolution.

Conclusion

By mutual agreement the landlord has been granted an Order of Possession that is effective two days after the notice has been served. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$2,850.00, which is comprised of unpaid May 2012 rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order for the balance of \$2,850.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The balance of the claim is dismissed.

The claim related to the garage does not fall within the jurisdiction of the Act.

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: June 01, 2012.

Residential Tenancy Branch