Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR / MNDC, MND, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / loss of rental income; compensation for damage to the unit, site or property; retention of the security deposit, and recovery of the filing fee.

The landlord's agent participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by registered mail, the tenants did not appear. Evidence provided by the landlord includes the Canada Post tracking numbers for both items of registered mail (one package to each tenant), and the Canada Post website informs that both items were "successfully delivered."

Issue(s) to be Decided

Whether the landlord is entitled to any of 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 February 1, 2010. At the outset of tenancy monthly rent of $945.00 was due and payable on the first day of each month, and a security deposit of $460.00 was collected. Towards the end of tenancy rent was $940.00 but, effective February 1, 2012, it became $975.00. A move-in condition inspection report was completed with the participation of both parties.

By letter dated March 11, 2012, the tenants gave notice to end the tenancy effective March 31, 2012. The tenants vacated the unit on March 31, 2012, and a move-out condition inspection report was completed with the participation of both parties on that same date. Subsequently, despite advertising on the landlord's website and on craigslist, new renters were not found until effective May 1, 2012.

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
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> > (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 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**, and provides:

> 7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
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> (2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence which includes, but is not limited to, photographs, and the affirmed / undisputed testimony of the landlord, the various aspects of the landlord's claim and my findings around each are set out below.

$70.00*: *outstanding rent for February & March 2012 following a rent increase*. I find that payment of rent for each of these two months fell short by $35.00 (payment of $940.00 rather than payment of $975.00). In the result, I find that the landlord has established entitlement to the full amount claimed (2 x $35.00).

$975.00*: *loss of rental income for April 2012*. I find that notice given to end tenancy does not comply with the statutory provisions, as above. I further find that the landlord undertook to mitigate their loss by advertising for new renters in a timely fashion but, despite that, new renters were not found until effective May 1, 2012. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

$732.72: *carpet replacement in 2 bedrooms*. Residential Tenancy Policy Guideline # 37 speaks to the "Useful Life of Work Done or Thing Purchased." In relation to carpet the "useful life" is estimated to be 10 years. The subject bedroom carpets were installed in April 2007. Accordingly, at the time of their replacement, 5 years' worth or half of their "useful life" had expired. In the result, I find that the landlord has established entitlement to **$366.36***, which is half the amount claimed.

$5.00*: *replacement of laundry room key*. I find that as the laundry room key given to the tenants at the start of tenancy was not returned at the end of tenancy, the landlord has established entitlement to the full amount claimed.

$72.00*: *general cleaning (4 hours x $18.00 per hour)*. On the basis mainly of the comparative results of the move-in and move-out condition inspection reports, as well as photographs taken of the unit at the end of tenancy, I find that the landlord has established entitlement to the full amount claimed.

$50.00*: *filing fee*. As the landlord has generally succeeded with this application, I find that the landlord has established entitlement to recovery of the full filing fee.

Total allowed: $1,538.36

Following from the above, I find that the landlord has established a claim of $1,538.36. I order that the landlord retain the security deposit of $460.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of $1,078.36 ($1,538.36 - $460.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **$1,078.36**. Should it be necessary, this order may be served on the tenants, 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: June 1, 2012.

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Residential Tenancy Branch