



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR; MNDC, MND; FF

Introduction

This is the Landlord's application for a Monetary Order for damages to the rental unit, unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents were mailed to the Tenant, via registered mail, on March 22, 2012, to an address provided by the Tenant. The Landlord provided a copy of the Canada Post tracking information for the registered documents which indicate that the Tenant signed for the registered mail on March 27, 2012.

Based on the Landlord's documentary evidence and affirmed testimony I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

Issues to be Decided

- Is the Landlord entitled to a monetary award for damages, unpaid rent and loss of revenue?

Background and Evidence

The Landlord gave the following testimony:

A copy of the tenancy agreement was provided in evidence. This tenancy began on November 1, 2011. The tenancy agreement is a one year lease, ending October 31, 2012. Monthly rent was \$1,000.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$500.00 in August, 2011. The Landlord is still holding the security deposit.

The Landlord testified that the Tenant did not pay rent for December, 2011 or January, 2012. She stated that the Tenant told her that she intended to pay rent, but was waiting for some assistance from the Ministry. The Landlord believed that she would pay and

therefore did not issue a notice to end the tenancy. The Landlord testified that the Tenant sent her an e-mail on January 23, 2012, advising that she would be moving out. The Landlord went to the rental unit on January 29, 2012, and found it abandoned. The Landlord testified that the Tenant advised her on January 30, 2012, that she would be returning to the rental unit to clean it and paint a room that she painted purple. The Landlord testified that the Tenant did not return by February 21, 2012, and did not return the keys to the rental unit or the mail box, so the Landlord rekeyed the rental unit on February 24, 2012.

The Landlord stated that the Tenant did not clean the rental unit before she moved out, and that she broke some cupboards. The Landlord stated that she had to repair some nicks in the walls, and paint the purple room. The Landlord provided receipts for the cost of materials required to clean, paint and repair the damages.

The Landlord testified that she re-rented the rental unit for \$1,000.00 a month on March 1, 2012 for May 1, 2012, and that the new occupants moved in on April 21, 2012. The Landlord did not charge the new Tenants any rent from April 21, 2012 to April 30, 2012.

The Landlord requested a monetary award, calculated as follows:

DESCRIPTION	AMOUNT
Unpaid rent from December 1, 2011 to April 1, 2012	\$5,000.00
Cost to re-key rental unit and mail box (receipt provided)	\$128.80
Cost for paint and repairs (receipts provided)	\$295.41
Cost to replace fob (receipt provided)	\$15.00
Cost to shampoo carpets (receipt provided)	\$259.05
Cost of sending documents to Tenant by registered mail	\$10.04
Recovery of filing fee	<u>\$100.00</u>
TOTAL CLAIMED	\$5,808.30

Analysis

Section 26 of the Act requires a tenant to pay rent when it is due. Section 45 of the Act provides for how a tenant can end a tenancy. Section 37 of the Act requires a tenant to leave the rental unit in a reasonably clean, undamaged condition and to return the keys or other means of access to the landlord at the end of a tenancy.

Based on the uncontested affirmed testimony and documentary evidence provided by the Landlord, I find that the Tenant did not comply with Sections 26, 45 or 37 of the Act and that this breach of the Act resulted in damage or loss to the Landlord.

The rental unit was occupied under a new tenancy on April 21, 2012. The Landlord did not charge the new occupants for prorated rent for the period from April 21 – April 30, 2012, and I find that the Landlord is not entitled to recover that loss from the Tenant. Therefore, I find that the Landlord has established an award against the Tenant for loss of revenue for the month of a April, 2012, in the prorated amount of \$750.00. The total monetary award for unpaid rent and loss of revenue is therefore **\$4,750.00**.

I find that the Landlord is entitled to a monetary award for the cost of re-keying the locks and replacing the fob, in the amount of **\$143.80**.

Included in the receipts for materials used to repair the rental unit are bowls that cost \$48.45 (plus tax of \$5.81). The Landlord did not recall what these bowls were used for and therefore I have not included them in her award for the cost of materials. I find that the Landlord has established a monetary award in the amount of **\$241.15** (\$295.41 - \$54.26).

The tenancy agreement includes a hand-written notation that the carpets must be steam cleaned at the end of the tenancy in order for the security deposit to be returned. The Landlord initialed this notation, but the Tenant did not. Residential Tenancy Policy Guideline 1 provides that a tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year; if the Tenant deliberately or carelessly stained the carpet; or at the end of a tenancy, regardless of the length, if the tenant had un-caged pets or smoked in the premises. In this case, the Tenant resided in the rental unit for only 3 months and there was no evidence that the Tenant had un-caged animals or smoked in the rental unit. However, photographs provided by the Landlord indicate that there were many stains on the carpet at the end of the tenancy. I am satisfied on the Landlord's testimony and documentary evidence that the carpets required cleaning and I allow this portion of the Landlord's claim in the amount of **\$259.05**.

There is no provision in the Act for a party to recover the cost of registered mail. Therefore this portion of the Landlord's claim is dismissed.

The Landlord has been largely successful in her application and I find that she is entitled to recover the cost of the **\$100.00** filing fee from the Tenant.

Further to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of her monetary award. No interest has accrued on the security deposit.

I hereby provide the Landlord a Monetary order, calculated as follows:

Unpaid rent and loss of revenue	\$4,750.00
Cost to rekey lock and replace fob	\$143.80
Cost to repair and paint	\$241.15
Cost to steam clean carpets	\$259.05
Recovery of the filing fee	<u>\$100.00</u>
Subtotal	\$5,494.00
Less security deposit	<u>- \$500.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$4,994.00

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of \$4,994.00 for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 04, 2012.

Residential Tenancy Branch