



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for a monetary Order for unpaid rent; for a monetary Order for damage; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present oral evidence, to ask relevant questions, and to make submissions to me.

The Agent for the Landlord stated that the Landlord sent the Application for Dispute Resolution and several pages of evidence to the Tenant, via registered mail, on June 18, 2012. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

The Agent for the Landlord stated that the Landlord sent an amended Application for Dispute Resolution, in which the Landlord reduced the amount of the monetary claim, and a letter from Paragon Realty, dated June 18, 2012, to the Tenant, via regular mail, on August 03, 2012. The Tenant stated that she did not receive these documents. As the Tenant did not acknowledge receiving the letter from Paragon Realty it was not accepted as evidence for these proceedings. The Agent for the Landlord declined the opportunity to request an adjournment for the purposes of re-serving this document to the Tenant.

During the hearing the Agent for the Landlord withdrew the claim for compensation for strata a fine, in the amount of \$75.00, as the document supporting that claim was not accepted as evidence.

I refused to consider the Landlord's application for compensation for "repairs" of \$400.00, pursuant to section 59(5)(a) of the *Residential Tenancy Act (Act)*, because the Application for Dispute Resolution did not provide sufficient particulars of this claim, as is required by section 59(2)(b) of the *Act*. In reaching this conclusion, I was strongly influenced by the fact that the type of repairs is not specified on the Application for Dispute Resolution. Although the Landlord did submit a receipt \$364.00 for a variety of repairs, I find that providing a receipt in an evidence package does not serve to clearly

outline the details of a financial claim. In reaching this conclusion I was further influenced by the Tenant's testimony that she did not understand the nature of the claim for "repairs". I find that proceeding with the Landlord's claim for "repairs" at this hearing would be prejudicial to the Tenant, as the absence of particulars makes it difficult for the Tenant to adequately prepare a response to the claim. The Landlord retains the right to file another Application for Dispute Resolution in which the Landlord claims compensation for "repairs".

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for unpaid rent; compensation for damage to the rental unit; to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on February 04, 2009 and continued until May 31, 2012. The parties agree that during the latter portion of the tenancy the Tenant was required to pay rent of \$1,049.00 by the first day of each month and that the Tenant paid a security deposit of \$497.00 on February 04, 2009.

The Landlord and the Tenant agree that a condition inspection report was completed at the beginning and the end of this tenancy, a copy of which was submitted in evidence, and that the Tenant provided the Landlord with a forwarding address, in writing, on May 31, 2012.

The Landlord is seeking unpaid rent from May, in the amount of \$1,049.00. The Landlord and the Tenant agree that the Tenant typically paid rent via direct deposit. The Agent for the Landlord stated that rent was not paid for May of 2012. The Tenant stated that she paid her rent by direct deposit on May 03, 2012 "or something". The Tenant submitted no documentary evidence, such as a bank statement, to corroborate her claim that she paid rent for May of 2012.

The Landlord submitted a ledger that shows the Tenant was paid in full by April 10, 2012; that \$1,049.00 was charged to her account twice on May 01, 2012; and that a direct deposit of \$1,049.00 was made on May 18, 2012.

The Landlord is seeking compensation, in the amount of \$400.00, for cleaning the rental unit. The Landlord submitted a condition inspection report for the rental unit, which was signed by the Tenant, which indicates the rental unit required significant cleaning at the end of the tenancy. The Landlord submitted a receipt to show this expense was incurred.

The Tenant stated that she cleaned the rental unit at the end of the tenancy, although she neglected to clean the fridge, some dead bugs in a light fixture, and the patio. She

stated that she does not agree with the content of the condition inspection report that was completed at the end of the tenancy and that she signed the report without reading it.

The Landlord is seeking compensation, in the amount of \$94.08, for cleaning the carpet in the rental unit. The Landlord submitted a condition inspection report for the rental unit, which was signed by the Tenant, which indicates the carpet in the bedroom required cleaning. The Landlord submitted a receipt to show this expense was incurred.

The Tenant stated that she cleaned the carpet with her personal carpet cleaner.

Analysis

On the basis of the undisputed evidence presented at the hearing I find that the Tenant was obligated to pay rent of \$1,049.00 by May 01, 2012. I find, on the balance of probabilities, that the Tenant did pay her rent for May of 2012. In reaching this conclusion I was influenced, in part, by the Tenant's testimony that she did pay her rent for May of 2012. To a much greater degree, this conclusion was influenced by the ledger that was submitted in evidence by the Landlord, which shows that the Tenant's account was paid in full by April 01, 2012; that \$1,049.00 was charged to her account twice on May 01, 2012; and that a direct deposit of \$1,049.00 was made on May 18, 2012. Despite the Agent for the Landlord's testimony that rent was not paid, I find that the ledger indicates that rent was paid and that an accounting error has been made.

Section 21 of the *Residential Tenancy Regulation* stipulates that a condition inspection report is evidence of the state of repair and condition of the rental unit on the date of inspection unless either the landlord or the tenant has a preponderance of evidence to the contrary. I find that the Tenant's declaration that rental unit was clean does not constitute a preponderance of evidence and I therefore find that the report that was submitted in evidence is evidence of the state of repair at the end of the tenancy.

On the basis of the condition inspection report submitted in evidence, I find that the rental unit and the carpet required cleaning at the end of the tenancy. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the rental unit in clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$494.08 for cleaning.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$544.08, which is comprised of \$494.08 for cleaning and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I authorize the Landlord to retain the Tenant's security deposit of \$497.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$47.08. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: August 21, 2012.

Residential Tenancy Branch