



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: MNR, MNDC, MNSD, FF, O
 Tenants: MNDC, MNSD, OLC

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for cleaning and repair expenses, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts. The Tenants applied for the return of a security deposit plus compensation equal to the amount of the deposit due to the Landlord's alleged failure to return it as required by the Act, for compensation for damage or loss under the Act or tenancy agreement and for an Order that the Landlord comply with the Act or tenancy agreement.

The Landlord served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on June 14, 2012. According to the Canada Post online tracking system, the Tenants received this mail on June 16, 2012. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing packages as required by s. 89 of the Act. The Landlord confirmed that he also received the Tenants' hearing package. However the Tenants did not attend the hearing to give evidence in support of their application and as a result, their application is dismissed without leave to reapply.

Issue(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for cleaning and repairs and if so, how much?
3. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This month-to-month tenancy started on July 22, 2010 and ended on June 1, 2012 when the Tenants moved out. Rent was \$1,200.00 per month payable in advance on the 22nd day of each month. The Tenants paid a security deposit of \$600.00 at the beginning of the tenancy.

The Landlord said the Tenants did not pay rent for the period, May 22, 2012 to June 21, 2012 when it was due and as a result, on May 23, 2012 he served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlord said the Tenants did not pay the outstanding rent and he was unable to re-rent the rental unit for the balance of June 2012 despite advertising it in a local newspaper on or before the date the Tenants vacated.

The Landlord said the Tenants left a number of belongings behind which collectively had a value of less than \$500.00. The Landlord provided a list of items as well as photographs in support of his claim for disposal expenses of \$252.00. The Landlord said the Tenants did not clean the rental unit at the end of the tenancy with the result that he incurred cleaning expenses of \$300.00. The Landlord further claimed that the Tenants did not return the keys to the rental unit and as a result, he incurred a cost of \$50.00 to replace the locks.

Analysis

In the absence of any evidence from the Tenants to the contrary, I find that the Tenants did not pay rent for the period, May 22, 2012 to June 21, 2012. RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy.

I find that the Landlord served the Tenants with a 10 Day Notice to End Tenancy on May 23, 2012. Consequently, the earliest the Tenants could have ended the tenancy (had they given the Landlord written notice on that day) would have been June 21, 2012. As a result, I find that the Landlord is entitled to recover rent and a loss of rental income for May 22, 2012 to June 21, 2012 in the amount of \$1,200.00.

Section 37 of the Act says that at the end of a tenancy, a Tenant must return to the Landlord all keys that give access to the rental unit and leave the rental unit reasonably clean and undamaged (except for reasonable wear and tear). The Landlord claimed that the rental unit required cleaning and in support, he provided an invoice for “move out clean” in the amount of \$300.00. With the exception of some furnishings left behind, none of the Landlord's photographs show the condition of the interior of the rental unit to be dirty. Consequently, I find that there is insufficient evidence to support the Landlord's claim for cleaning expenses and it is dismissed without leave to reapply. I also find that there is insufficient evidence to support the Landlord's claim for replacing the locks and that part of his application is dismissed without leave to reapply.

Sections 24 and 25 of the Regulations to the Act says that a Landlord may dispose of a tenant's abandoned personal property if it has a market value of less than \$500.00. In the absence of any evidence from the Tenants that their belongings were not

abandoned and had a market value of \$500.00 or more, I find that the Landlord was entitled to dispose of their belongings and to recover his expenses of \$252.00 for doing so.

As the Landlord has been successful in this matter, he is also entitled pursuant to s. 72(1) of the Act to recover from the Tenants the \$50.00 filing fee he paid for this proceeding. Consequently, I find that the Landlord has made out a total monetary claim for \$1,502.00. I Order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants' security deposit of \$600.00 in partial payment of the monetary award. The Landlord will receive a Monetary Order for the balance owing of \$902.00.

Given that the Tenants abandoned their application, I further Order pursuant to s. 72(2) of the Act that the Tenants pay to the Director the \$50.00 filing fee that was waived for this proceeding.

Conclusion

A Monetary Order in the amount of \$902.00 has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 13, 2012.

Residential Tenancy Branch