



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MNR, MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for damage or loss under the Act or tenancy agreement, for compensation for damages to the rental unit, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts. At the beginning of the hearing, the Landlord's agent said the Tenant has moved out of the rental unit and as a result, she withdrew the Landlord's application for an Order of Possession.

The Landlord's said the Tenant was served in person on August 8, 2012 with the Application and Notice of Hearing (the "hearing package") and she provided a written witness statement to that effect. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

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 repair expenses?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This fixed term tenancy started on May 1, 2012 and was to expire on April 30, 2013, however it ended on August 11, 2012 pursuant to a Mutual Agreement to End Tenancy executed by the Parties on August 3, 2012. Rent was \$1,250.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$625.00. The Landlord's agent said she was unaware of whether a condition inspection report was completed at the beginning or at the end of the tenancy as required by s. 23 and s. 35 of the Act.

An addendum to the Parties Mutual Agreement to End the Tenancy states as follows:

- "1. The Tenant agrees to vacate the premises on or before August 11, 2012 [and to] waive the \$625.00 security deposit to the Landlord;

2. Landlord to waive collection [of] August rent of \$1,250.00 due on August 1, 2012;
3. Landlord to waive collection of outstanding noise violation fines of \$550.00 fines paid on behalf of the Tenant;
4. Landlord to waive collection on pending strata management fines incurred by the Tenant amounts to be determined;
5. Landlord to waive collection for outstanding utility expenses; and
6. Landlord to waive collection of reimbursement of suite clean-up costs that include carpet cleaning or replacement and other suite deep cleaning costs.”

The Landlord's agent said when the Tenant vacated the rental unit he caused further damage to the carpet with the result that it had to be replaced. The Landlord's agent also said the Tenant punched holes in a number of walls and two doors. The Landlord's agent further claimed that the Tenant did not return all of the keys and fobs that give access to the rental unit and laundry room and as a result, the Landlord incurred expenses to replace the locks and key fobs.

Analysis

Based on the Parties' agreement set out above, I find that the Landlord is not entitled to recover unpaid rent for August, 2012, outstanding strata fines, costs of cleaning the rental unit at the end of the tenancy and costs of replacing the carpet. I also find that the Tenant gave the Landlord written authorization to keep his security deposit in full satisfaction of these claims and therefore, I dismiss the Landlord's application to keep the Tenant's security deposit.

Section 37 of the Act requires a Tenant to return all keys that give access to the rental unit (and rental property) at the end of the tenancy. In the absence of any evidence from the Tenant to the contrary, I find that he did not return all of the keys and fobs to the rental unit and property and as a result, I find that the Landlord is entitled to compensation of \$75.04 for changing the locks and \$40.00 for new fobs.

In the absence of any evidence from the Tenant to the contrary, I also find that he is responsible for damaging walls and two doors in the rental unit and I award the Landlord compensation of \$122.39 for supplies (including 2 new interior doors) and \$620.00 for labour to make those repairs. I also find that the Landlord is entitled to recover from the Tenant the \$50.00 filing fee he paid for this proceeding.

Conclusion

The Landlord's application for an Order of Possession is withdrawn. A Monetary Order in the amount of \$907.43 has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, 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: September 10, 2012.

Residential Tenancy Branch