



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; MNSD; FF

Introduction

This is the Landlord's application for compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent testified that on June 21, 2012 at 3:30 p.m., he delivered the Notice of Hearing documents to the Tenant, at the forwarding address that she provided.

The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to compensation for cleaning the rental unit at the end of the tenancy, removing garbage, and the cost of unpaid utilities?
- May the Landlord apply the security deposit towards its monetary award?

Background and Evidence

This tenancy began on June 4, 2004. Monthly rent was \$625.00, due on the first day of each month. The Tenant paid an additional \$30.00 a month for a fridge and stove. Rent did not include utilities, except water. The Tenant paid a security deposit in the amount of \$312.50 on June 5, 2004. The tenancy ended on May 31, 2012.

A move out Condition Inspection Report was completed on June 1, 2012, a copy of which was provided in evidence. The Tenant was present at the move out inspection and signed the section of the report indicating that she agreed that the report fairly

represented the condition of the rental unit at the end of the tenancy. The Tenant did not agree to any deductions from her security deposit.

The Landlord seeks to recover the cost of cleaning the rental unit at the end of the tenancy and removal of garbage. During the Hearing, the parties agreed that the Tenant had paid the outstanding utility bill and the Landlord withdrew its application with respect to that cost. The Landlord provided copies of invoices with respect to the cleaning charges, garbage removal and dump fees.

The Tenant agreed that she was responsible for the cleaning charges, but disputed the claim for garbage removal.

Analysis

This is the Landlord's claim for damage or loss under the Act and therefore the Landlord has the burden of proof to establish its claim on the civil standard, the balance of probabilities.

To prove a loss and have the Tenant pay for the loss requires the Landlord to satisfy four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Tenant in violation of the Act,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Tenant agreed that she was responsible for the cost of cleaning the rental unit in the amount of **\$336.00**, and therefore I allow this portion of the Landlord's claim.

The Landlord provided an invoice for the garbage removal from the rental unit dated June 1, 2012. I find, on the balance of probabilities, that the Tenant left garbage at the rental unit, contrary to the provisions of Section 37(2) of the Act and that the Landlord suffered a loss as a result of the Tenant's breach of the Act. Therefore, I allow this portion of the Landlord's claim in the amount of **\$224.00**.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit in the amount of **\$312.50**, together with accrued interest in the amount of **\$11.05**, towards partial satisfaction of the Landlord's monetary award.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

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

Cleaning charges	\$336.00
Garbage removal	\$224.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$610.00
Less security deposit and interest	<u>- \$323.55</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$286.45

Conclusion

I hereby provide the Landlord a Monetary Order in the amount of **\$286.45** 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: September 07, 2012.

Residential Tenancy Branch