



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MND, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for unpaid rent and damage to the rental unit, for authority to retain the tenants' security deposit and for recovery of the filing fee.

The landlord appeared; the tenants did not appear.

The landlord gave evidence that they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on July 17, 2012. The evidence included the registered mail receipts and tracking information.

I find the tenants were served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order, to retain the tenant's security deposit and to recover the filing fee?

Background and Evidence

This tenancy began on November 1, 2011, ended on June 30, 2012, when the tenants vacated the rental unit, monthly rent was \$950.00, and the tenants paid a security deposit of \$475.00 at the beginning of the tenancy.

The landlord's claim is in the amount of \$1152.00, which includes loss of revenue for July 2012 in the amount of \$950.00, carpet cleaning of \$112.00, suite clean of \$50.00, a late fee of \$25.00 for May 2012, and light bulbs for \$15.00.

The landlord's relevant evidence included receipts for the costs claimed, the condition inspection report, the tenancy agreement, electronic communication between the parties, showing the tenants' acknowledgement of financial responsibility, and proof of advertisements for the rental unit for July 2012.

The landlord testified that the tenants gave insufficient notice of their intent to vacate the rental unit, causing the landlord to suffer a loss of revenue for the month of July. The landlord said that the tenants were made aware that they would be responsible for rent for July in the event the landlord was unable to re-rent the rental unit and the tenants confirmed that they understood that.

The landlord also said the rental unit and carpet needed to be cleaned at the end of the tenancy, pointing to the condition inspection report as proof.

The landlord said that they had to replace light bulbs after the tenants vacated.

As to the late fee, the landlord said that the tenants paid their monthly rent late for May, which was subject to a \$25.00 late fee per the tenancy agreement.

Analysis

In a claim for damage or loss under the Act or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the party took reasonable measures to mitigate their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In the absence of the tenants who failed to attend to the hearing, the landlord's evidence will be preferred.

Loss of Revenue- Section 45 of the Act requires a tenant to give notice to end the tenancy that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy.

I am satisfied, based on the unopposed testimony of the landlord and evidence, that the tenants provided insufficient notice under the Act to vacate and that the landlord took reasonable steps to minimize their loss for July. I therefore find the landlord has proven a claim for loss of revenue for July in the amount of \$950.00.

Carpet and suite cleaning-I find the landlord submitted sufficient evidence that the rental unit and the carpet required cleaning and of their loss as a result of the tenants' failure to leave the rental unit reasonably clean and I therefore find the landlord has proven a claim for \$162.00.

Light bulbs-I find the landlord has submitted sufficient evidence that the tenants were responsible for light bulb replacement and I therefore find the landlord has proven a claim for \$15.00.

Late fee-I find the landlord submitted sufficient evidence that the tenants were responsible for a \$25.00 late payment of rent fee for May 2012 and I therefore find the landlord has proven a claim for \$25.00.

I find the landlord is entitled to recovery of the filing fee of \$50.00.

Conclusion

I find the landlord has established a total monetary claim in the amount of \$1202.00, comprised of loss of revenue for July 2012 in the amount of \$950.00, suite cleaning of \$50.00, carpet cleaning of \$112.00, light bulbs for \$15.00, late payment of rent fee of \$25.00 and recovery of the filing fee of \$50.00.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$475.00 in partial satisfaction of their monetary claim and I grant the landlord a final, legally binding monetary order in the amount of \$727.00 for the balance due, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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* and is being mailed to both the applicant and the respondent.

Dated: September 28, 2012.

Residential Tenancy Branch