



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF

Introduction

The original hearing arising from the landlord's application was scheduled to occur on August 23, 2012. However, as the dispute resolution officer found that neither party had called into the teleconference call, the application was dismissed with leave to reapply. Subsequently, the landlord filed an application for review consideration on the basis of an inability to attend. In the result, by decision dated September 14, 2012, the landlord's application was allowed and this present hearing was scheduled.

The hearing concerns the landlord's application for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Agents representing the landlord participated in this hearing and gave affirmed testimony.

The landlord's agents testified that the original application for dispute resolution and notice of hearing (the "hearing package") was served on the tenant by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

Included in the decision of September 14, 2012, which was mailed to the landlord, were notices of hearing. The landlord was instructed to serve one of the notices of hearing on the tenant. The landlord's agents testified that the notice of hearing was served by way of registered mail. Evidence submitted by the landlord in this regard includes the Canada Post tracking number for the registered mail; the Canada Post website informs that the item was "unclaimed by recipient" and was then "successfully returned to the sender." Following from all of the above, despite the tenant's absence from this present hearing, I find that he has been served with the hearing package and the re-issued notice of hearing in compliance with section 89 of the Act which addresses **Special rules for certain documents**.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, what ultimately became a month-to-month tenancy began on May 1, 2009. Monthly rent at the outset of tenancy was \$630.00, and it was due and payable in advance on the first day of each month. A security deposit of \$315.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

By letter dated May 31, 2012, the tenant gave notice to end tenancy effective June 30, 2012. A move-out condition inspection report was completed by the landlord's agent in the tenant's absence on or about July 1, 2012. The tenant returned to meet with the landlord's agent on July 15, 2012, at which time he provided his forwarding address. At that same time the tenant affixed his signature to the move-out condition inspection report to indicate that he did not agree that the report "fairly represents the condition of the rental unit," even while he did not take an opportunity to walk through the unit with the landlord's agent. The landlord's application for dispute resolution was subsequently filed on July 16, 2012.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, the various aspects of the landlord's claim and my findings around each are set out below.

\$10.42: registered mail. Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, this aspect of the landlord's claim is hereby dismissed.

\$868.00: painting. The landlord's agents testified that the unit had been newly painted throughout immediately prior to the start of the subject tenancy. Residential Tenancy Policy Guideline # 40 speaks to the "Useful Life of Building Elements," and provides that the "useful life" of interior paint is 4 years. After considering the comparative results of move-in and move-out condition inspection reports, a receipt for materials and labour, as well as the affirmed / undisputed testimony of the landlord's agents, I find that the landlord has established entitlement limited to **\$217.00***, which is 25% of the amount claimed. In addition to the above, this finding reflects consideration of normal wear and tear during a 3 year tenancy, in relation to the 4 year "useful life" of interior paint.

\$160.00*: cleaning. Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, and provides in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and...

Further, Residential Tenancy Policy Guideline # 1 addresses "Landlord & Tenant – Responsibility for Residential Premises." Further to the comparative results of the move-in and move-out condition inspection reports, and a receipt, documentary evidence submitted by the landlord includes photographs taken within the unit. Having considered the documentary evidence and testimony, I find that the landlord has established entitlement to the full amount claimed.

\$95.20*: carpet cleaning. Under the heading – CARPETS, Residential Tenancy Policy Guideline # 1, as above, provides in part:

CARPETS

3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

Once again, having considered the documentary evidence which includes the comparative results of move-in and move-out condition inspection reports, a receipt and

photographs, I find that the landlord has established entitlement to the full amount claimed.

\$50.00*: filing fee. As the landlord has mainly succeeded in this application, I find that the landlord has established entitlement to recovery of the full filing fee.

Following from all of the above, I find that the landlord has established entitlement in the total amount of \$522.20. I order that the landlord retain the security deposit of \$315.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$207.20 (\$522.20 - \$315.00).

Finally, section 82 of the Act speaks to **Review of director's decision or order**, and provides in part:

82(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Pursuant to the findings set out above, the original decision dated August 23, 2012 is hereby set aside.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$207.20. Should it be necessary, this order may be served on the tenant, filed in the 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: October 24, 2012.

Residential Tenancy Branch