



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNR, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for damage to the unit, site or property / compensation for unpaid rent or utilities / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

There is no written tenancy agreement in evidence, and the tenant named in the application is only one of what were several different tenants living in the unit over a period of time. The tenant named in the application lived in the unit from on or about June 1, 2010. There appears to be no disagreement that monthly rent is \$1,900.00, and that a security deposit of \$950.00 was collected. There is no move-in condition inspection report in evidence.

The parties agree that with respect to rent which was unpaid when due on January 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated January 6, 2012. The notice was served by way of posting on the unit door on that same date. A copy of the notice is not in evidence. The tenant testified that very shortly after the notice was served, he vacated the unit. The tenant testified that he made no further payment toward rent before vacating the unit, and he has no knowledge of any other tenants making a payment toward the unpaid rent. There is no move-out condition inspection report in evidence.

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 testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated January 6, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

As for the monetary order, I find that the landlord has established entitlement to a claim of \$1,950.00, which is comprised of unpaid rent of \$1,900.00 for January 2012, in addition to \$50.00 which is half the filing fee. The entitlement to recovery of only half the filing fee reflects the limited success achieved by the landlord in this application.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of \$950.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,000.00 (\$1,950.00 - \$950.00).

Residential Tenancy Policy Guideline # 13 speaks to "Rights and Responsibilities of Co-Tenants," and provides in part as follows:

A tenant is the person who has signed a tenancy agreement to rent residential premises. If there is no written agreement, the person who made an oral agreement to rent the premises and pay the rent is the tenant. Co-tenants are

two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement. Co-tenants also have equal rights under the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Other aspects of the application and my findings around each are set out below.

\$2,182.42: disposal / cleanup. In relation to this aspect of the application the attention of the parties is drawn to the following particular sections of the Act:

Section 23: Condition inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

In short, in the absence of the comparative results of move-in and move-out condition inspection reports, I find that there is insufficient evidence to support this aspect of the application and it is, therefore, hereby dismissed.

\$1,000.00: graffiti removal / paint rear deck. For reasons identical to those set out immediately above, this aspect of the application is hereby dismissed.

\$479.54: utilities. In the absence of a written tenancy agreement in evidence which might serve to confirm the nature of any agreement between the parties concerning utilities, this aspect of the application is hereby dismissed.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,000.00**. 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 04, 2012.

Residential Tenancy Branch