



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MND, MNSD and FF

Introduction

This hearing was convened on an application by the landlord on August 29, 2012 seeking a monetary award for unpaid rent/ loss of rent, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent on August 30, 2012 by registered mail to the address provided by the tenant, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims submitted and in what amounts.

Claims in damages require that several factors be taken into account: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenants, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

Background, Evidence and Analysis

This tenancy began on February 1, 2012 under a fixed term rental agreement set to end on January 31, 2013. Rent was \$1,800 per month and the landlord holds a security deposit of \$900- paid on January 9, 2012.

During the hearing, the landlord submitted into evidence a copy of an email dated July 28, 2012 in which the tenant gave notice that she was vacating the rental unit on August 1, 2012. The tenant did vacate but did not appear at the move-out condition inspection as promised on August 2, 2012 at 7 p.m. and had left the door to the rental unit open and the keys inside.

The landlord submitted a copy of the rental agreement, a large number of photographs, series of receipts, copies of email exchanges with the tenant, proof of advertising, and a copy of the condition inspection reports in support of her claims and on which I find as follows:

Unpaid rent/loss of rent - \$2,700. Section 45(2)(b) of the *Act* provides that tenants' notice to end a fixed term tenancy agreement cannot have an effective end of tenant date earlier than that set by the fixed term agreement. Section 7 of the *Act* states that if one party to a rental agreement suffers a loss or damage due to the non-compliance of the other with the agreement or legislation, the non-compliant party must compensate the other for the loss. This section also imposes a duty on the person suffering the loss to do whatever is reasonable to minimize the loss.

The present claim is based on unpaid rent from August 1, 2012 to September 15, 2012 when the landlord was able to begin a new tenancy. The landlord has submitted copies of Craigslist advertisements of the rental which she stated began on August 2, 2012 in an effort to minimize the loss.

I find that the tenant breached the fixed term agreement, that the landlord took reasonable effort to minimize the loss and is entitled to recover the lost rent from the tenant. This claim is allowed in full.

Carpet cleaning - \$112. On the basis of photographic evidence and a paid receipt, this claim is allowed in full.

Replace two wall sconce glass covers - \$27.99. The landlord gave evidence that these items appear to have been broken during the move-out and has provide photos and receipt in support of the claim. It is allowed in full.

Painting supplies - \$28.88. The landlord stated that the rental unit had been freshly painted prior to the tenancy and considerable touch up and patching were required. The claim is supported by a receipt and it is allowed in full.

Paint - \$49.14. For the same reasons cited in the preceding item, this claim is allowed in full.

Cleaning supplies - \$46.64. The landlord stated that, with the assistance of a professional cleaner, she had done much of the cleaning herself and has provided a receipt in support of this claim which is allowed in full.

Water bill - \$175.58. The rental agreement required the tenant to pay the water bill which she failed to do for the duration of the tenancy. This claim is supported by a copy of the invoice and is allowed in full.

Professional house cleaner - \$105. The landlord submitted a copy of the invoice for this service which appears to be at the very low end of prevailing charges and reflects the additional work done by the landlord. The claim is allowed in full.

Repair broken blinds – \$28. This claim is supported by photos and paid receipt and is allowed in full.

General patching, painting, refuse removal and cleaning - \$500. The landlord submits this claim in compensation for 17 hours labour by herself and her partner for removing a substantial amount of garbage from the rental unit, patching walls, painting labour and additional general cleaning. The landlord stated that she had based the claim on the rate charged by the professional cleaner. I am reducing the award on this claim to \$20 per hour for the 17 hours for a total of \$340.

Filing fee - \$50. As the landlord's application has substantially succeeded on its merits, I find that she is entitled to recover the filing fee for this proceeding from the tenant.

Security deposit – (\$900). As authorized by section 72 of the *Act*, I order that the landlord retain the security deposit in set off against the balance owed to her by the tenant.

Thus, I find that the tenants owe to the landlord an amount calculated as follows:

Unpaid rent/loss of rent	\$2,700.00
Replace two wall sconce glass covers	27.99
Painting supplies	28.88
Paint	49.14
Cleaning supplies	46.64
Water bill	175.58
Professional house cleaner	105.00
Repair broken blinds	28.00
General patching, painting, refuse removal and cleaning	340.00
Filing fee	50.00
Sub total	\$3,663.23
Less retained security deposit (No interest due)	- 900.00
TOTAL	\$2,763.23

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$2,763.23** for service on the tenant.

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: November 14, 2012.

Residential Tenancy Branch