



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67; and
2. An Order to recover the filing fee pursuant to Section 72.

The tenant appeared at the hearing. Both parties were given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Has the landlord met the burden of proving his claims?

Background

The landlord submitted a tenancy agreement made between the parties indicating that this tenancy began on June 1, 2012 and set for a fixed term ending November 30, 2012 at which point it would revert to a month-to-month tenancy. The landlord says that despite this fixed term tenancy the tenant vacated the rental unit at the end of October 2012 without paying November's rent. The landlord is therefore claiming rent of \$650.00 for November, 2012.

Further, the landlord says the tenant left damages to the screen door, the carpets were not shampooed, there was miscellaneous cleaning and the need for the removal of goods to the dump and the BC Hydro account has not been paid. In addition, the landlord is seeking recovery of the arbitration fee and costs for registered mail. In total the landlord is claiming \$1,320.00 as detailed in his claim.

The tenant stated that she had a verbal agreement with the landlord that she could vacate October 31, 2012. The tenant says the screen door was damaged at move in and this is indicated on the move-in inspection report. The tenant says the carpets were not shampooed when she moved in so she did not shampoo them when she vacated. The tenant says she cleaned the rental unit thoroughly. The tenant says there were some goods left behind by the previous tenants and she left those goods behind as well. The tenant says she is not responsible for hydro for November because she did not live in the rental unit in November.

The landlord responded that he had no agreement with the tenant to end the tenancy prior to the end of the fixed term. The landlord said there was small damage to the screen door when this tenancy started but the screws and part of the door fell out and the tenant did not maintain the door properly so more damage resulted.

Findings

Overall, the onus or burden of proof is on the party making the claim this means that the party making the claim must bring sufficient evidence to show that the other party caused the loss and the applicant must also bring sufficient evidence to prove the value of the loss. When one party provides testimony/evidence of the events in one way and the other party provides an equally probable but different version of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails.

With respect to the claim for rent to the end of the fixed term while the tenant says there was a verbal agreement, the landlord disputes this. Further the *Residential Tenancy Act* stipulates that amendments to Tenancy Agreements must be in writing and there has been insufficient evidence supplied to show that there was a written amendment. I will therefore allow the landlord's claim for \$650.00 in rent for November 2012.

With respect to the balance of the claim, while the landlord has claimed certain sums for the cost of cleaning, repairs and the removal of goods the landlord has failed to bring sufficient evidence to show that the tenant caused the loss or that the landlord is out of pocket for any sum in this regard.

With respect to the carpets while the Act does stipulate that tenants are to shampoo carpets this is the case of tenancies lasting at least a year, or where there were pets or the tenants were smokers. This tenancy did not last one year and the landlord did not show that the tenant kept pets in the rental unit or that she was a smoker.

With respect to the BC Hydro invoice the landlord failed to supply sufficient evidence, such as an invoice, to show the hydro charges. This claim is therefore dismissed as well.

Filing Fees

As the landlord has had some success I will allow him to recover the \$50.00 filing fee he has paid to make this claim. I deny his claim for the costs of registered mail as I am only authorized to allow for filing fees with respect to costs incurred.

Calculation of total Monetary Award

Rental Arrears for November	\$650.00
Filing Fees for the cost of this application	50.00
Less Security Deposit	-350.00
Less Interest on the Deposit	0.00
Final Award payable by tenant to landlord	\$350.00

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order as any Order of the Provincial Court of British Columbia.

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: February 18, 2013

Residential Tenancy Branch

