



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, and FF

Introduction

This hearing was convened on the landlord's application of November 14, 2012 seeking a monetary award for unpaid rent/loss of rent, carpet cleaning and 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 by registered mail on November 16, 2012 to the address provided by the tenant on the move-out condition inspection report, 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

Is the landlord entitled to a monetary award for unpaid rent/loss of rent, cleaning and filing fee, and authorization to retain the security deposit?

Background and Evidence

This tenancy began on or about July 6, 2012. On October 1, 2012 the parties renewed the tenancy under fixed term rental agreement set to end on December 31, 2012. Rent was \$625 per month due on the first day of the month and the landlord holds a security deposit of \$312.50 paid on July 6, 2012. The landlord submitted the rental agreement into evidence.

During the hearing, the landlord submitted into evidence a copy of the tenants' notice to end tenancy which was dated October 28, 2012 and advised that the tenant would be vacating ASAP due to financial difficulties.

The parties completed a move-out condition inspection report on November 2, 2012 which the tenant signed, acknowledging the need for some cleaning. The landlord advised the tenant that he would be pursuing a claim for the unpaid rent and loss of rent.

The landlord stated that the rental unit remained vacant at the time of the hearing and submitted copies of six advertisements that appeared in the local daily newspaper between November 7, 2012 and December 5, 2012. In addition, the landlord stated he had advertised the rental unit with on- site signage and a listing on the Craigslist internet site.

The landlord claims the rent for November and December of 2012 for the balance of the fixed term tenancy. In addition, the landlord claims \$50 total for carpet cleaning and general cleaning.

Analysis

Section 45 of the *Act* stipulates that a tenant's notice to end a fixed term tenancy agreement cannot have an effective date earlier than the end date set by the fixed term agreement, December 31, 2012 in the present matter.

Section 7 of the *Act* provides that if one party to a rental agreement suffers a loss due to the others non-compliance with the rental agreement, then the non-compliant party must compensate the other for that loss, subject to a duty to do whatever is reasonable to minimize the loss.

In the present matter, I find that the tenant breached the fixed term rental agreement and that, by virtue of the advertising for new tenants, the landlord has met the obligation under section 7(2) of the *Act* to do whatever is reasonable to minimize his loss.

Therefore, I find that the tenant must compensate the landlord for the \$625 rent for each of November and December of 2012.

I further find that the landlord is entitled to compensation for the carpet cleaning and general cleaning for a claimed total of \$50.

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

As authorized under section 72 of the Act, I hereby order that the landlord may retain the tenants' security deposit in set off against the amount awarded.

Thus, I find that the landlord is entitled to a monetary award calculated as follows:

Unpaid rent for November 2012	\$ 625.00
Unpaid rent/loss of rent for December 2012	625.00
Carpet cleaning, general cleaning	50.00
Filing fee	<u>50.00</u>
Sub total	\$1,350.00
Less retained security deposit (No interest due)	<u>- 312.50</u>
TOTAL	\$1,037.50

Conclusion

In addition to authorization to retain the tenant's 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 **\$1,037.50** 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: February 14, 2013

Residential Tenancy Branch

