



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant's application filed November 28, 2012: MNDC; FF

Landlord's application filed November 30, 2012: MNDC; FF

Introduction

This Hearing was convened on January 9, 2013, to consider cross applications. The Tenant sought to cancel a Notice to End Tenancy for Unpaid Rent; compensation for damage or loss under the Act, regulation or tenancy agreement; an Order that the Landlord comply with the Act and make emergency and regular repairs to the rental unit; an Order suspending or setting conditions on the Landlord's right to enter the rental unit; an Order allowing the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the cost of the filing fee from the Landlord.

The Landlord sought an Order of Possession and a Monetary Order for unpaid rent; compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of the Landlord's monetary award; and to recover the cost of the filing fee from the Tenant.

An Interim Decision was provided to the parties on January 10, 2013, which should be read in conjunction with this Decision. Most of the parties' applications were dealt with during the January 9th Hearing. The remainder of the issues were adjourned to March 13, 2013.

The remaining issues are: The Tenant's application for damage or loss and recovery of the filing fee from the Landlord; and the Landlord's application for loss of revenue for the month of January, 2013, compensation for damage to the fridge, and recovery of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the reconvened Hearing.

Preliminary Matter

On January 9, 2013, these matters were adjourned to March 13, 2013, at 1:30 p.m. The Residential Tenancy Branch sent out Notices of the reconvened Hearing to both parties. The Landlord signed into the conference and was ready to proceed, however

by 1:40 p.m., the Tenant had not yet signed into the teleconference, which remained open for 30 minutes.

Rule 10.1 of the Residential Tenancy Branch Rules of Procedure provides as follows:

Commencement of Hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

I find that that the Tenant has abandoned his application, and therefore I dismiss the Tenant's application **without leave to re-apply**.

The Hearing continued with respect to the remainder of the Landlord's application.

Issues to be Decided

- Is the Landlord entitled to compensation for loss of revenue and towards the cost of a new refrigerator?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

On January 10, 2013, the Landlord was provided an Order of Possession and a monetary award in the amount of \$4,147.17 for unpaid rent and utilities to December, 2012. The \$800.00 security deposit was set off against the Landlord's monetary award and a Monetary Order was provided to the Landlord in the amount of \$3,347.17.

At the outset of the reconvened Hearing, the Landlord testified that the Tenant moved out of the rental unit on or about January 19, 2013, without leaving a forwarding address or returning the key to the rental unit. The Tenant did not pay any rent for the month of January, 2013.

The Landlord testified that the Tenant damaged a door, stole one of the two refrigerators at the rental unit and damaged the other. The Landlord testified that the Tenant also damaged shelving and blinds at the rental unit.

The Landlord testified that in April, 2012, the Tenant requested a larger fridge for the rental unit. The Landlord purchased a larger fridge and the original fridge was placed on the deck for use as a beer fridge and for barbeques. The Landlord stated that there was nothing wrong with the new fridge he had bought, but the Tenant told the Landlord that the new fridge was not big enough, was the wrong colour, and did not have a bottom freezer. Therefore, the parties agreed that the Landlord would return it and

purchase a more expensive one. In return, the Tenant promised to pay the Landlord \$250.00 towards its cost, which was the difference between the cost of the new fridge that the Landlord originally bought and the fridge that the Tenant wanted. The Landlord testified that the Tenant did not pay the \$250.00 as promised, and that the Tenant also took the second fridge from the deck when he moved out.

The Landlord seeks a monetary award, calculated as follows:

| | |
|-----------------------------------|-------------------|
| Loss of revenue for January, 2013 | \$1,600.00 |
| Compensation for the refrigerator | \$250.00 |
| Recovery of filing fee | \$100.00 |
| TOTAL AWARD SOUGHT | \$1,950.00 |

Analysis

I accept the Landlord's undisputed affirmed testimony in its entirety.

The Landlord provided a copy of a warning letter in evidence, dated May 20, 2012. This letter warns the Tenant about the outstanding \$250.00 owed for the new fridge, as well as arrears for utilities, and an unauthorized dog at the rental unit.

The Tenant did not pay rent for the month of January, 2013, and I find that the Landlord is entitled to loss of revenue in the amount of **\$1,600.00**. I also find that the parties' agreement regarding the fridge formed a part of the tenancy agreement and that the Tenant owes the Landlord compensation for the new fridge in the amount of **\$250.00**.

The total amount awarded to the Landlord is as follows:

| | |
|---|-------------------|
| January 10 th monetary award | \$4,147.17 |
| March 28 th monetary award | <u>\$1,850.00</u> |
| TOTAL | \$5,997.17 |
| Less set off of security deposit | -\$800.00 |

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the **\$100.00** filing fee from the Tenant.

The Landlord remains at liberty to apply for further compensation with respect to the missing fridge, damaged shelves and other damages discovered after the tenancy ended.

Conclusion

The Tenant's application is **dismissed without leave to reapply**.

I hereby provide the Landlord with a Monetary Order in the amount of **\$1,950.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims Court) and enforced as an Order of that Court.

The Landlord remains at liberty to apply for further compensation with respect to the missing fridge, damaged shelves and other damages done by the Tenant but not discovered by the Landlord until after the tenancy ended.

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: March 28, 2013

Residential Tenancy Branch

