



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD and FF

Introduction

This hearing was convened on the landlord's application of February 19, 2013 seeking a monetary award for damage or loss under the legislation or rental agreement, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain all or part of the security and pet damage deposits in set off against the balance owed.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for the claims submitted?

Claims in damages require that several factors be taken into account: whether damages are proven and attributable to the tenant, the comparison of move-in vs. move-out condition inspection reports, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable.

Claim for damage or loss under the legislation or rental agreement require that the claimant take reasonable measures to minimize the loss.

The burden of proof falls to the applicant.

Background and Evidence

This tenancy began on July 1, 2009 under a six month fixed term agreement defaulting to a month to month tenancy. Rent was \$875 per month and the landlord holds security and pet damage deposits of \$400 each, paid on July 1, 2009.

During the hearing, the landlord gave evidence that the tenant had given verbal notice in mid-January 2013 that he was leaving the tenancy and had paid only \$420 of the rent for February 2013. The tenant confirmed that because he had stay only two weeks in February, he believed he did not have to pay the full rent.

The landlord also submitted into evidence a copy of a bill for mowing the yard and cleaning up after the tenant's dog, responsibilities of the tenant under the rental agreement.

The landlord also made claims for general cleaning of the rental unit, repainting of two bedrooms, and refuse removal but he provided no specific amounts or corroborating evidence in support of the claims.

Analysis

Section 45 of the *Act* stipulates that a tenant's notice to end tenancy must be given in writing and be served on a day before the rent due date to take effect at the end of that month. In the present matter, the tenant's notice was not in writing and had set an end of tenancy date in the middle of the month. Therefore, I find that the tenant must pay the outstanding balance of the rent for February 2013. As the tenant paid \$420 of the \$875 that was due, I find the landlord is entitled to recover the additional \$455.

I further find that, as the rental agreement required the tenant to clean up the yard, the landlord is entitled to recover the \$39.20 he paid a third party to have the work done for which he has submitted a receipt.

However, the landlord had submitted no corroborating evidence or specific amounts to support the other claims for cleaning, painting and refuse removal. Therefore, those claims are dismissed without leave to reapply.

As the application has substantially 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 amount owed to him from the tenants' security and pet damage deposits, calculated as follows:

Tenant's Credits		
Security deposit paid July 1/09 (no interest due)	\$400.00	
Pet damage deposit paid July 1/09 (no interest due)	<u>400.00</u>	
Sub total	\$800.00	\$800.00
Award to Landlord		
Balance of rent for February 2013	\$455.00	
Clean yard after dog	39.20	
Filing fee	<u>50.00</u>	
Sub total	<u>\$544.20</u>	<u>- 544.20</u>
TOTAL remainder to be returned to tenant		\$255.80

Conclusion

The landlord is authorized to retain \$544.20 from the tenant's security deposit and must return \$255.80. For that purpose, the tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$255.80 for service on the landlord.

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: May 14, 2013

Residential Tenancy Branch

