



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Li-Car Management Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for damage to the unit, site or property / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

While the tenants testified that they actually moved into the unit sometime after June 1, 2012, pursuant to the written tenancy agreement in evidence, the 6 month fixed term of tenancy began on June 1, 2012. The tenancy agreement provides that at the end of the fixed term, "the tenancy may continue on a month-to-month basis or another fixed length of time." In this case, the tenancy continued on a month-to-month basis after the end of the 6 month fixed term.

Monthly rent of \$2,100.00 was due and payable in advance on the first day of each month, and a security deposit of \$1,050.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

By letter dated February 5, 2013, the tenants gave notice to end tenancy effective February 28, 2013. A move-out condition inspection report was completed with the participation of both parties, and the tenants provided their forwarding address on February 28, 2013. The landlord's application for dispute resolution was filed on March 13, 2013.

The landlord's agent testified that advertising for new renters commenced immediately following receipt of the tenants' notice to end tenancy. Advertising was undertaken on the landlord's website, as well as by way of a local paper. Ultimately, new renters were found effective from March 15, 2013.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

The various aspects of the landlord's claim and my findings around each are set out below.

\$966.00: *loss of rental income for the period from March 1 to 14, 2013.*

Section 45 of the Act speaks to **Tenant's notice**, in part as follows:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 52 of the Act speaks to **Form and content of notice to end tenancy**:

In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45(1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

Section 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and testimony, I find that the tenants' notice to end tenancy does not comply with the statutory provisions set out in section 45 of the Act. Further, I find that the landlord undertook to mitigate the loss of rental income by advertising for new renters in a timely fashion after receiving the tenants' notice. Accordingly, I find that the landlord has established entitlement to the full amount claimed. The landlord's calculation of the amount claimed is as follows:

$\$2,100.00$ (monthly rent) \times 12 (# months in a year) = $\$25,200.00$ (1 year's rent)

$\$25,200.00$ (1 year's rent) \div 365 (# days in a year) = $\$69.04$ (daily rent)

$\$69.04$ (daily rent) \times 14 days (# days from March 1 to 14) = $\$966.00$ (rounded off)

$\$280.00$: (8 hours \times $\$35.00$ per hour) *cleaning*.

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and....

The tenants testified that they undertook to clean the unit prior to the end of tenancy. At the same time, the move-out condition inspection report documents the landlord's perspective that certain areas in the unit still required cleaning. Documentary evidence submitted by the landlord includes an invoice related to the cost incurred. I find on a balance of probabilities that the landlord has established entitlement limited to **\$140.00**, which is half the amount claimed.

\$89.60: *carpet cleaning (stairs only).*

Documentary evidence submitted by the landlord includes a receipt in support of the cost claimed. During the hearing the tenants did not dispute this aspect of the landlord's application. In the result, I find that the landlord has established entitlement to the full amount claimed.

\$36.40: *call-out maintenance (turn on furnace switch).*

During the hearing the tenants testified that they contacted the landlord in order to advise that the furnace was not operating. Further, the tenants testified that at different times they used space heaters to heat the unit. Apparently, the furnace did not require repair, rather, the on / off switch required switching "on." Evidence submitted by the landlord includes an invoice in support of the cost claimed. I find on a balance of probabilities that the tenants were responsible for switching the furnace to "off," and that the landlord has therefore established entitlement to the full amount claimed.

\$50.00: *filing fee.*

As the landlord has largely succeeded with this application, I find that the landlord has established entitlement to recovery of the full filing fee.

Sub-total entitlement: \$1,282.00

I order that the landlord retain the security deposit of **\$1,050.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$232.00** (\$1,282.00 - \$1,050.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$232.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

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: June 07, 2013

Residential Tenancy Branch

