



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened as a result of the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee.

The landlord appeared at the hearing; the tenant did not appear.

The landlord supplied evidence that she served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on March 26, 2013. The landlord supplied the tracking number of the registered mail and said that she checked the tracking history on the Canada Post website, finding that the tenant had signed for the registered mail.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recover the filing fee?

Background and Evidence

The landlord stated that the tenancy commenced on July 1, 2012, ended on February 28, 2013, monthly rent was \$1250 and the tenant paid a security deposit of \$375 at the beginning of the tenancy.

The landlord stated that tenant's security deposit had been dealt with in a previous dispute resolution hearing and subsequent Decision.

The landlord's monetary claim is \$486.13, comprised of the oil tank re-fill and re-start charge for \$324.93, garbage dump loads for \$58.80 and \$33.60, lock change for \$18.80, and the filing fee of \$50.

In explanation, the landlord said the tenancy agreement required that the tenant put \$300 for oil replacement at the end of the tenancy. The landlord provided a copy of the tenancy agreement and said that the oil tank was empty at the end of the tenancy, which additionally required a restart fee.

The landlord also submitted that the tenant refused to clean out the rental unit, despite assuring the landlord that she would return, causing the landlords to incur a cost to dump the garbage at the landfill. The landlords supplied copies of photographs of the garbage and of the receipts.

The landlord stated that the tenant did not return the key at the end of the tenancy, which necessitated the landlord to purchase a new lock. The landlord provided the receipt.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act, which falls in sections 7 and 67, or tenancy agreement, the claiming party, the landlords in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the

claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In the absence of the tenant after being duly served with the landlords' application, I prefer the undisputed evidence of the landlords.

Oil replacement costs-I find the landlords submitted sufficient evidence that the tenant was contractually obligated to replace the oil in the rental unit's oil tank in the amount of \$300 and failed to do so. I therefore find the landlords are entitled to monetary compensation of \$324.93.

Garbage dump fees-I find the landlords submitted sufficient evidence that the tenant failed to remove her belongings and garbage and to clean the rental unit as required of her as a tenant under Section 37(2)(a) of the Act and that the landlords' claim for expenses incurred in removing said belongings and garbage is justified. I therefore find the landlords are entitled to monetary compensation in the amount of \$92.10.

Lock change-I find the landlords submitted sufficient evidence that the tenant failed to return the key to the rental unit as required of her as a tenant under Section 37(2)(b) of the Act and that the landlords were therefore required to change the lock, incurring an expense. I therefore find the landlords are entitled to monetary compensation in the amount of \$18.80.

The landlords' application was successful and I award them recovery of the filing fee of \$50.

Due to the above, I find the landlords have proven an entitlement to a monetary award against the tenant of \$486.13, comprised of the oil tank refill and re-start charge for \$324.93, garbage dump loads for \$58.80 and \$33.60, lock change for \$18.80, and the filing fee of \$50.

Conclusion

The landlords' application for monetary compensation is granted.

I grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$486.13, which I have enclosed with the landlords' Decision.

Should the tenant fail to pay the landlords this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia

(Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from 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* and is being mailed to both the applicant and the respondent.

Dated: June 19, 2013

Residential Tenancy Branch