



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MMDC, FF

Introduction

This hearing was convened in response to an application by the tenant seeking a monetary order for damages and compensation for loss and seeking to retain the security deposit.

Both parties attended the hearing and gave evidence under oath. The landlord confirmed that his first name was spelled incorrectly in the Application. The style of cause has been amended to reflect the correct spelling of the landlord's name.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The tenancy agreement submitted in the evidence shows that there were two tenants, the tenant named in this application, JPW and another tenant RMP. Only JPW has been named in this application. The tenancy began on October 1, 2012, rent was fixed at \$1,000.00 per month payable in advance and the tenants paid a security deposit of \$500.00 on September 30, 2012.

The landlord testified that each tenant paid \$250.00 of the deposit and RMP participated but JPW did not. At move-out RMP authorized the landlord to retain \$95.00 of the deposit for damages. The landlord submitted the move-in/move-out condition inspection report noting that RMP agreed with the report. The report states "Fridge needed to be cleaned as well as the floors, stove, my bedroom JPW is paying for the family room, painting and garbage". After deducting \$95.00 from RMP's share of the deposit, the landlord then returned \$155.00 to RMP. The landlord produced the cancelled cheque payable to RMP in evidence.

The landlord now seeks to retain JPW's portion of the deposit (\$250.00). He also seeks costs for repairs and other damages against JPW as follows:

Paint and Labour	\$250.00
Clean up and garbage	150.00
Replace countertop tile	75.00
April rent	900.00
Filing Fee for this application	50.00
Total Claimed	\$1425.00

The tenant disagrees with this claim. The tenant submits that this was one tenancy and the matter has been resolved between the tenants and the landlord as set out in the condition inspection report. The tenant says he has also paid a \$500.00 pet deposit which has not been returned.

Analysis

Residential Tenancy Act policy clarifies the rights and responsibilities relating to multiple tenants renting a rental unit under one tenancy agreement.

A tenant is the person who has signed a tenancy agreement to rent residential premises. Co-tenants are two or more tenants who sign the same agreement and/or agree to rent the same property under the same agreement. As co-tenants they are jointly responsible for meeting the terms of the tenancy agreement and they have equal rights under the tenancy agreement.

Co-tenants are also jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

A security deposit or a pet damage deposit is paid in respect of a particular tenancy agreement. Regardless of who paid the deposit, any tenant who is a party to the tenancy agreement to which the deposit applies may agree in writing to allow the landlord to keep all or part of the deposit for unpaid rent or damages, or may apply for arbitration for return of the deposit.

The evidence is that this was a single tenancy under one tenancy agreement. The tenant RMP performed the move-out inspection and agreed that the landlord could retain \$95.00 of the deposit. The condition inspection report does note at move-out that

some areas of the rental unit were dirty, scratched and that the floor/carpet in the kitchen was damaged however it is not clear for what items the \$95.00 was withheld. While the RWP stated that the JWP would be responsible for payment of "...the family room, painting and garbage" I find that the landlord has failed to supply sufficient evidence to show that he has paid out sums for these items.

Further, with respect to the claim for April's rent the landlord has failed to supply sufficient evidence to show that the rental unit was in such a state that it could not be rented. Certainly the condition inspection report does not lend itself to finding that the rental unit was in such poor condition. Further, the landlord has provided insufficient evidence of mitigation in this regard. The landlord's claim is therefore dismissed.

The evidence shows that the landlord has returned part of the deposit to the other tenant RWP and he is holding \$250.00 which both parties agree belongs to JWP. Having failed to prove this claim I direct the landlord return the remaining balance of \$250.00 to JWP forthwith. JWP has been provided with an order in this regard enforceable as an Order of the Provincial Court of British Columbia.

The tenant states that he also paid a pet deposit of \$500.00 however I have no application before me with respect to that sum. The tenant therefore remains at liberty to apply for recovery of that sum.

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 25, 2013

Residential Tenancy Branch