



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 539256 AB Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD and FF

Introduction

By application of May 7, 2013, the landlord sought a monetary award for unpaid rent, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on May 10, 2013 to a forwarding address provided by the tenant, she did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

As a matter of note, this was a co-tenancy with two tenants. Due to the technical challenge of filing an online application, the application did not name the second tenant. Therefore, I cannot name her in any Monetary Order as might be awarded to the landlord. The landlords were given the option of withdrawing the present application or proceeding against the one named tenant which they chose to do. As co-tenants are jointly and severally liable with respect to the tenancy, either or both may be held accountable on a monetary claim if properly named and served.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims submitted and in what amounts.

Claims in damages require that several factors be taken into account: whether damages are proven and attributable to the tenants, the comparison of move-in vs. move-out condition inspection reports, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

Background, Evidence and Analysis

This tenancy began on March 1, 2012 and ended on the tenant's notice given on March 8, 2013 effective April 30, 2013, although she actually vacated some days earlier. Rent was \$1,175 per month and the landlord holds a security deposit of \$587.50 and a pet damage deposit of \$100 paid at the beginning the tenancy.

The landlord submitted into evidence copies of the rental agreement, receipts, an NSF cheque, condition inspection reports, and copies of email exchanges between the parties in support of the following claims on which I find as follows:

Rent for April 2013 - \$1,175. This claim is supported by a copy of the dishonoured rent cheque dated April 1, 2013 which was returned to the landlords on April 16, 2013. In subsequent communications, the tenant promised to replace the payment, then declined to do so. She told the landlord by email of May 6, 2013 that, having vacated in mid April, she authorized the landlord to keep the security deposit as payment of rent. However, as section 45 of the *Act* requires tenant's notice to end tenancy must give at least one full month's notice following the next rent due date after service, I find that the rent for the full month is owed and this claim is allowed. The application of the deposits to the landlord's claims will follow.

Replace wood floor transition - \$49.37. The landlords gave evidence that the tenant had acknowledged the damage to the wood floor which she attributed to a guest. The claim is supported by a paid receipt and it is allowed in full.

Light bulb replacement – \$18.59. This claim is supported by receipt, although the extensions were missed on the copy, in the absence of evidence to the contrary and on the balance of probabilities I accept it as true. The claim is allowed.

Clean rugs, interior windows, oven door and floors - \$210. This claim is supported by a receipt and it is allowed in full.

Filing fee - \$50. As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Security deposit and pet damage deposits – (\$6867.50). As authorized by section 72 of the *Act*, I order that the landlord retain the security deposit of \$587.50 and the pet damage deposit of \$100 in set off against the balance owed by the tenant.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Rent for April 2013	\$1,175.00
Replace wood floor transition	49.37
Light bulb replacement	18.59
Clean rugs, interior windows, oven door and floors	210.00
Filing fee	<u>50.00</u>
Sub total	\$1,502.96
Less retained security and pet damage deposits (No interest due)	- 687.50
TOTAL	\$ 815.46

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$815.46** for service on 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*.

Dated: August 01, 2013

Residential Tenancy Branch

