



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Preliminary Issues

The Landlords testified that the Tenants were served with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, on June 18, 2013, in one registered mail package that was addressed to both Tenants. Canada Post tracking information was provided in the Landlord's oral submission and they confirmed that the package was served to the address provided by the Tenant C.C. during the June 05, 2013 dispute resolution hearing related which related to file # 249331.

Section 89(1) of the *Residential Tenancy Act* and Section 3.1 of the *Residential Tenancy Rules of Procedures* determines the method of service for documents. The Landlords have applied for a monetary Order which requires that the Landlords serve **each** respondent as set out under *Residential Tenancy Rules of Procedures*.

In this case, because only one registered mail package was sent and because it was sent to the address provided by C.C. as his service address, I find that the application request for a Monetary Order against both Tenants must be amended to include only the male Tenant, C.C., who has been properly served with Notice of this Proceeding.

As only one package has been served, I find the female Tenant T.M. has not been properly served the Application for Dispute Resolution, as required under section 89 (1) of the Act. Accordingly, the monetary claim against the female Tenant T.M. is dismissed without leave to reapply.

Based on the submissions of the Landlords I find that Tenant C.C. is deemed served notice of this proceeding on June 10, 2013, five days after it was mailed, in accordance with section 90 of the Act; therefore I proceeded in C.C.'s absence.

Introduction

This hearing dealt with an Application for Dispute Resolution filed on June 18, 2013, by the Landlord, to obtain a Monetary Order for: money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

The Landlords appeared at the teleconference hearing and gave affirmed testimony. During the hearing each Landlord was given the opportunity to provide their evidence orally and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Landlord's be granted a monetary order?

Background and Evidence

The Landlords submitted documentary evidence which included, among other things, copies of: their written submission; a detailed listing of items claimed; receipts for repairs and cleaning; the decision from the June 5, 2013 hearing; and photos that were taken on June 13, 2013 of the rental unit.

The Landlords testified that the Tenants entered into a month to month tenancy agreement that began on March 1, 2013. Rent was payable on the first of each month in the amount of \$750.00 and prior to the onset of the tenancy the Tenants paid \$375.00 as the security deposit.

The Landlords advised that during the previous hearing the Tenant had agreed to vacate the unit and return the keys to them; so on June 10, 2013 they attended the unit to regain possession and the Tenant called the police. The police informed the Landlords to wait until they received the written decision before taking possession of the unit. They received the written decision on June 13, 2013, at which time they proceeded to change the locks and to prepare the unit to be re-rented.

The Landlords stated that the Tenants failed to return the keys, as previously agreed, and they had left the unit dirty and filled with trash. The unit could not be re-rented until they were able to remove the trash and clean it up. They regained possession on June 13, 2013 and were able to re-rent the unit effective July 1, 2013.

The Landlords are seeking monetary compensation of \$977.75 which consists of: \$72.75 to re-key the locks; \$150.00 carpet cleaning; \$150.00 unit cleaning; \$80.00 garbage removal; and \$525.00 for 21 days of lost rental income.

Analysis

Upon consideration of the undisputed evidence before me, in the absence of any evidence from the Tenant who did not appear, despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlords and corroborated by their documentary evidence.

Section 32 (3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Based on the aforementioned I find the Tenant has breached sections 32(3) and 37(2) of the Act, leaving the rental unit unclean and with some damage at the end of the tenancy.

As per the foregoing I find the Landlord has met the burden of proof and I award them damages in the amount of **\$977.75** (\$72.75 to re-key the locks; \$150.00 carpet cleaning; \$150.00 unit cleaning; \$80.00 garbage removal; and \$525.00 for 21 days of lost rental income).

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit plus interest as follows:

| | |
|--|-------------------------|
| Damages repairs and cleaning | \$ 977.75 |
| Filing Fee | <u>50.00</u> |
| SUBTOTAL | \$1,027.75 |
| LESS: Security Deposit \$537.50 + Interest 0.00 | <u>-375.00</u> |
| Offset amount due to the Landlord | <u>\$ 652.75</u> |

Conclusion

The Landlord has been awarded a Monetary Order against the Tenant C.C. in the amount of **\$652.75**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The claim against Tenant T.M. is hereby dismissed, without leave to reapply.

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 21, 2013

Residential Tenancy Branch

