



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MND, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security and pet damage deposits / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail to each tenant, neither tenant appeared. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail, and the Canada Post website informs that both packages were "refused by recipient."

Issue(s) to be Decided

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

Background and Evidence

In response to an application by the tenants, a previous hearing was held in a dispute between these parties (file # 799502). In the decision dated October 23, 2012, it is noted that the tenancy began on February 6, 2011, and that monthly rent is \$1,000.00. It is also noted that a security deposit of \$500.00 and a pet damage deposit of \$500.00 were collected. Further, pursuant to a "settlement agreement" reached between the parties during that hearing, it was agreed that tenancy would end effective January 31, 2013, and an order of possession was issued in favour of the landlord to that effect.

Subsequently, arising from rent which remained unpaid when due on January 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 5, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate

the unit is January 15, 2013. Thereafter, the tenants made no further payment toward rent, and it is understood that they vacated the unit on or about January 20, 2013.

When the landlord attended the unit and entered on January 31, 2013, he found that certain rubbish had been left behind, and that the unit required cleaning and repairs. The tenants left no forwarding address and keys to the unit were not returned. Advertising for new renters began around mid April 2013, and new renters were found effective June 1, 2013.

A move-in condition inspection report was not completed at the start of tenancy, and the landlord completed a move-out condition inspection report dated January 31, 2013 in the absence of the tenants. The landlord acknowledged that entries were made on the move-in portion of the report when he completed the move-out portion of the report. There is no evidence that the landlord offered the tenants at least 2 opportunities for completing a move-out condition inspection.

Within what the landlord described as a “small community,” the landlord testified that he became aware of the tenants’ forwarding address by way of contact with the tenants’ new landlord. Thereafter, the landlord filed his application for dispute resolution and undertook to serve each tenant with the hearing package.

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 attention of the parties is drawn to the following particular sections of the Act and the Guidelines:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Further, section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy:**

37(1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(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
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

As well, Guideline # 1 addresses “Landlord & Tenant – Responsibility for Residential Premises,” and Guideline # 40 speaks to “Useful Life of Building Elements.”

Based on the documentary evidence which includes but is not limited to receipts and photographs, in addition to the affirmed / undisputed testimony of the landlord, the various aspects of the landlord’s claim and my findings around each are set out below.

\$1,000.00: *unpaid rent for January 2013.*

I find that the landlord has established entitlement to the full amount claimed.

\$2,000.00: *loss of rental income for February and March 2013.*

It is generally accepted that there was a need for rubbish removal, cleaning and repairs at the end of this tenancy. While the landlord claims that these tasks delayed his ability to re-rent the unit, in the absence of the comparative results of move-in and move-out condition inspection reports (where the tenants were provided with at least 2 opportunities to participate), I find that the landlord has established entitlement limited to **\$1,000.00**.

\$11,047.10: *miscellaneous supplies and labour.*

I find that the landlord has established entitlement limited to **\$2,750.00**. In part, this finding is made for reasons similar to those set out immediately above which concern move-in and move-out condition inspection reports.

Additionally, this finding is made on the basis of the landlord’s testimony that the interior of the unit had last been fully painted in 2005 (“useful life” of interior paint is 4 years), that the discarded refrigerator was approximately 8 years old (“useful life” of refrigerator is 15 years), that the discarded carpet was installed in 2007 (“useful life” of carpet is 10

years), and that the discarded linoleum was installed in 2005 (“useful life” of tile is 10 years; no specific “useful life is identified for linoleum).

In relation to \$43.68 which has been claimed for printing of photographs submitted in evidence, section 72 of the Act speaks to **Director’s orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, this particular aspect of the application is hereby dismissed.

\$2,287.50: *time spent on cleaning, painting, repairs and travel.*

The amount claimed is calculated on the basis of what the landlord submits was 91.5 hours of his time @ \$25.00 per hour.

I find that the landlord has established entitlement limited to **\$500.00**. Similar to reasons set out above, I make this finding in the absence of the comparative results of move-in and move-out condition inspection reports (where the tenants were provided with at least 2 opportunities to participate). This finding is also made largely on the basis that the interior paint had already exceeded its “useful life” of 4 years at the time when the landlord repainted the interior of the unit.

\$75.00: *missing fire pit.*

The landlord testified that this cost has not been incurred. Accordingly, this aspect of the application is hereby dismissed.

\$10.00: *missing outside lock.*

I find that the landlord has established entitlement to the full amount claimed.

\$100.00: *filing fee.*

As the landlord has achieved a significant measure of success with his application, I find that he has established entitlement to recovery of the full filing fee.

Sub-total: \$5,360.00

I order that the landlord retain the security deposit of \$500.00 and the pet damage deposit of \$500.00 [total: **\$1,000.00**], and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$4,360.00** (\$5,360.00 - \$1,000.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$4,360.00**. This order may be served on the tenants, 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: September 04, 2013

Residential Tenancy Branch

