



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / 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, the tenant did not appear. Evidence submitted by the landlord includes the tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

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 a previous application by the landlord a hearing was held on June 12, 2013 (file # 808035). In the result, by decision of that same date a monetary order was issued in favour of the landlord. As is the case in this present hearing, the tenant did not attend the previous hearing. Some of the details related to the tenancy are set out in the decision of June 12, 2013.

Effective March 1, 2013 the tenant entered into a tenancy agreement with the landlord with an expiry date of June 30, 2014. A previous tenancy agreement for the same unit had been entered into with the tenant's wife in 2012, however, after she vacated the unit the tenant undertook to reside in the unit for the remainder of the original 2 year fixed term. A security deposit of \$1,700.00 continues to be held in trust by the landlord, however, he testified that the tenant gave him verbal permission to retain it.

The landlord testified that a move-in condition inspection report was not completed in the case of either tenancy agreement. Neither was a move-out condition inspection report completed at the end of either tenancy.

The landlord testified that he sold the unit in August 2013.

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:

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**

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

\$1,600.00: *1 person x 8 days x 8 hours per day x \$25.00 per hour*

In the absence of the comparative results of move-in and move-out condition inspection reports, I find that the landlord has established entitlement limited to **\$800.00**, which is half the amount claimed.

\$1,920.00: *2 persons x 8 days x 8 hours per day x \$15.00 per hour*

In the absence of the comparative results of move-in and move-out condition inspection reports, I find that the landlord has established entitlement limited to **\$960.00**, which is half the amount claimed.

\$260.00: *carpet cleaning*

Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, and Residential Tenancy Policy Guideline addresses “Landlord & Tenant – Responsibility for Residential Premises.” I find that the landlord has established entitlement to the full amount claimed.

\$175.00: *paint*

Residential Tenancy Policy Guideline # 40 addresses the “Useful Life of Building Elements,” and provides that the useful life of interior paint is 4 years. The landlord testified that the interior paint was new when the initial tenancy began in June 2012. Accordingly, as there was approximately 1 year of normal wear and tear on the paint when tenancy ended, I find that the landlord has established entitlement limited to **\$131.25**, which reflects 75% (3 years) of the amount claimed.

\$120.00: *replacement of pine trees (6 x \$20.00)*

A photograph shows 6 dead trees located within a long row of apparently healthy trees on either side of them. Accordingly, it is unclear what led to the demise of the 6 trees at issue. In the result, I find that the landlord has failed to meet the burden of proving that the tenant was somehow responsible for the loss of these 6 trees, and this aspect of the claim is therefore dismissed.

\$333.00: *garbage removal / dump fees*

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

\$600.00: *replacement stove*

This cost reflects an estimate and as the landlord testified that he did not ultimately replace the stove, he withdrew this aspect of the claim.

\$50.00: *filing fee*

As the landlord has achieved a measure of success with this application, I find that the landlord has established entitlement to the full amount claimed.

Sub-total: \$2,534.25

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of **\$1,700.00**, and I hereby issue a **monetary order** in favour of the landlord for the balance owed of **\$834.25** (\$2,534.25 - \$1,700.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$834.25**. This order may be served on the tenant, 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 19, 2013

Residential Tenancy Branch

