



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Aquaterra Management Ltd.
Columbia Place Apartments
and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

This is the Landlord's application for a Monetary Order for damages and unpaid rent; for compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenant was served with the Notice of Hearing documents, by registered mail, on June 17, 2013. The Landlord provided a copy of the Canada Post Tracking system print out in evidence. It was also determined that the Tenant was served with the Landlord's documentary evidence by registered mail sent on August 21, 2013. The Landlord provided a copy of the registered mail receipt and tracking number in evidence.

The Tenant provided documentary and digital evidence to the Residential Tenancy Branch on August 2, 2013. He testified that he did not serve the Landlord with copies of his documentary evidence. The Landlord acknowledged receipt of the Tenant's digital evidence on August 29, 2013, but stated that he did not open it because it was late.

The Tenant's documentary evidence is a two page typewritten submission of the Tenant's with respect to the Landlord's claim. I advised the parties that I would not consider the Tenant's documentary evidence because he had not served the Landlord, however I invited the Tenant to provide his submission orally. The Tenant's digital evidence is a flash drive with 9 photographs of the rental unit at the end of the tenancy.

Issues to be Decided

- Is the Landlord entitled to compensation for unpaid rent for the month of June, 2013, the cost of cleaning the rental unit and repairing the walls and carpet, the cost of removing garbage, and replacing burned out light bulbs and a laundry card?

- May the Landlord deduct its monetary award from the security deposit?

Background and Evidence

This tenancy began on July 1, 2006. At the end of the tenancy, monthly rent was \$1,270.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$495.00 on July 1, 2006.

The Landlord's agent CF gave the following testimony:

On May 28, 2013, the Tenant gave written notice that he was ending the tenancy effective June 30, 2013. A copy of the notice was provided in evidence.

The Tenant did not pay rent for the month of June and moved out of the rental unit at the beginning of June, 2013. The Landlord's agent found the keys to the rental unit in the office mail slot on June 4, 2013.

A move out Condition Inspection Report was completed in the Tenant's absence on June 4, 2013, a copy of which was provided in evidence.

CF testified that the Tenant did not clean the rental unit at the end of the tenancy and that the walls required repair. He stated that the carpet and drapes required additional cleaning and that it was not possible to remove some stains from the carpet. The carpet was new in December, 2004. The Landlord provided 68 photographs and copies of invoices in evidence.

The Landlord seeks a monetary award, calculated as follows:

Unpaid rent for June, 2013	\$1,270.00
Suite and window cleaning	\$185.00
Drape cleaning (double cleaning)	\$160.00
Carpet cleaning	\$65.00
Damaged carpet	\$150.00
Damaged walls	\$100.00
Junk removal	\$110.00
Replace burned out light bulbs	\$25.00
Replace lost laundry card	<u>\$5.00</u>
TOTAL	\$2,070.00

The Tenant gave the following testimony:

The Tenant testified that he gave the Landlord verbal notice to end the tenancy at the

beginning of May, 2013. He stated that he could not afford to pay rent for two places in June, 2013. The Tenant testified that he told the Landlord in the middle of May that he had to move at the beginning of June. The Tenant stated that the Landlord made no attempt to find another Tenant for June 15, 2013.

The Tenant disputed the Landlord's claim for carpet damage. He stated that he intended to clean the rental unit, but got caught up in moving. The Tenant testified that his access to the elevator was taken away and that he got an eviction notice taped to his door on June 2, 2013.

The Tenant stated that he moved on June 1, 2013, and returned the keys through the mail slot on June 2, 2013.

The Tenant stated that the rental unit was dirty when he moved in.

CF gave the following reply:

CF testified that the rental unit was advertised for rent on-line and a notice was put up on the rental property. He stated that the downtown rental market is volatile and the Landlord receives 10 – 20 move-outs per month. Most Tenants move at the same time of the month, so the elevator has to be booked early.

CF referred to the Condition Inspection Report and noted that the rental unit was clean at the beginning of the tenancy.

Analysis

Section 52 of the Act provides that in order to be effective, a notice to end a tenancy must be in writing. Therefore, I find that any verbal notice to end the tenancy was of no effect.

Section 45(1) of the Act provides:

Tenant's notice

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is **not earlier than one month** after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

[my emphasis added]

Section 67 of the Act states that if damage or loss results from a party not complying with the Act, regulation or tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Tenant did not comply with Section 45 of the Act and that the Landlord suffered a loss as a result of that breach, in the amount of \$1,270.00 for June rent. This portion of the Landlord's application is granted.

Section 37(2) of the Act requires a tenant to leave the rental unit reasonably clean and undamaged except for reasonable wear and tear at the end of a tenancy. Based on the Tenant's testimony and the photographs provided, I find that the Tenant did not comply with the provisions of Section 37(2) of the Act and that the Landlord is entitled to recover the cost of cleaning the rental unit, shampooing the carpet, cleaning the drapes, and repairing the damaged walls. In the absence of documentary proof of the cost incurred, I find that the Landlord did not provide sufficient evidence to prove the remainder of its claim

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of the Landlord's monetary award. Interest in the amount of \$16.47 has accrued on the security deposit.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent	\$1,270.00
General cleaning of the rental unit	\$185.00
Drapery cleaning	\$92.61
Carpet cleaning	\$65.00
Wall repair	\$100.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,762.61
Less security deposit and accrued interest	<u>- \$511.47</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,251.14

Conclusion

I hereby provide the Landlord with a Monetary Order in the amount of **\$1,251.14** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 16, 2013

Residential Tenancy Branch

