



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, OLC, FF

Introduction

This matter dealt with an application by the Tenants for a Monetary Order for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the Tenants' security deposit, for the Landlord to comply with the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on August 1, 2013. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

Issues(s) to be Decided

1. Is there a loss or damage to the Tenants and if so how much?
2. Are the Tenants entitled to compensation for the damage and if so how much?
3. Has the Landlord complied with the Act?
4. Are the Tenants entitled to recover the security deposit?

Background and Evidence

This tenancy started on December 1, 2012 as a fixed term tenancy with an expiry date of November 30, 2013. Rent was \$2,400.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$1,200.00 on November 1, 2012. The Tenant said they moved out of the rental unit on June 16, 2013 due to a water issue from a broken sprinkler pipe.

The Tenant said that because of the broken sprinkler pipe outside their rental unit water leaked into the unit making it uninhabitable. The Tenant said the restoration company told them it would be 6 weeks until the unit was completely repaired so the Tenants decided to move out. The Tenant said they moved out on June 16, 2013 and gave the Landlord email notice on June 29, 2013 that they were not moving back into the rental unit.

The Tenant continued to say that as a result of having to move they made an application for the following monetary compensation on July 29, 2013.

Reimbursement of their insurance deductible	\$1,000.00	
Return of rent	\$1,120.00	
Return of Security Deposit	\$1,200.00	
Cost of change of address	\$ 50.35	
Canada Post registered mail costs	\$ 20.00	
Cost of stop payments at the bank	\$ 20.00	
Filing Fee	\$ 50.00	
Total claim		\$3, 390.55

The Tenant said she did not send the receipt for the insurance deductible as the claim was not completed when she submitted her application, but she did submit the receipts for the cost to change their address and for the registered mail costs.

The Tenant continued to say that after they had made their application for dispute resolution the Landlord sent them a cheque for \$2,120.00 on August 13, 2013. The Tenant said the cheque represented the return of the security deposit of \$1,200.00 and the return of rent from June 16, 2013 to June 30, 2013 in the amount of \$1,120.00 less a strata fine of \$200.00. The Tenant said they should not have to pay the strata fine as she thought it was in the tenancy agreement that she could sublet her rental unit to guests.

The Landlord said the cheque represented the Tenants' security deposit of \$1,200.00 plus the return of rent from June 17, 2013 to June 30, 2013 in the amount of \$1,120.00 less a \$200.00 strata fine that the Tenants were give for having paying guests in the rental unit. The Landlord said no subletting or having paid guests in the rental unit is allowed by the Strata so the Strata fined him \$200.00 for the Tenants having paid guest in the rental unit. The Landlord said he has paid the fine, but he did not submit the receipt for the payment for the Hearing.

The Landlord said he has worked with the Tenants and reimbursed them there costs due to the pipe break which was not his fault so he does not believe this situation should have gone to a hearing.

Analysis

The Tenants have received monetary compensation from the Landlord to recover their security deposit of \$1,200.00. As a result I find the Tenants' application for the return of the security deposit of \$1,200.00 has been resolved. I dismiss the Tenants' application for the return of the security deposit without leave to reapply.

In addition the Landlord has returned the Tenants' rent of \$1,120.00 for June 16 to June 30, 2013 less the strata fine of \$200.00. Consequently the Tenants claim for the rent return has been resolved. The question remaining is the deduction of the \$200.00 strata fine valid.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has not submitted any evidence to corroborate the strata find of \$200.00 therefore the Landlord has not proven or verified the strata fine of \$200.00 is valid. Consequently I find the Tenants have established grounds to be awarded the full amount of the rent from June 16, 2013 to June 30, 2013 therefore: I find the \$200.00 deduction from the Tenants rent is not valid and I award the Tenants \$200.00.

Similarly the Tenants did not submit any corroborating evidence to support their claim for the Insurance Deductible of \$1,000.00, I find that the Tenants have not established grounds for the recovery of the insurance deductible of \$1,000.00 due to lack of evidence. The Tenants' claim for the insurance deductible is not proven or verified therefore; I dismissed the claim without leave to reapply.

With regard to the Tenants' claim for reimbursement for the costs of change of address of \$50.35, the registered mail costs of \$20.00 and the stop payment costs of \$20.00, I find that these costs are not costs directly involved with the tenancy and the Landlord is not solely responsible for the claims in violation of the Act. These claims are normal costs incurred by a tenant moving or for preparation for this proceeding. Consequently I dismiss theses claims without leave to reapply.

As the Tenants have been only been partially successful in this matter, the Tenants are ordered to bear the cost of the filing fee of \$50.00 which they have already paid. The Tenants will receive a monetary order for \$200.00 which represents the rent for June 16, 2013 to June 30, 2013 that was not returned to them by the Landlord as the Landlord kept this amount to cover a strata fine of \$200.00.

Conclusion

A Monetary Order in the amount of \$200.00 has been issued to the Tenants. A copy of the Order must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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

