



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNDC, MNSD, FF

Introduction

This hearing concerns an application by the landlords for a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Female landlord “BL” 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, neither tenant appeared. Evidence submitted by the landlords includes the Canada Post tracking number for the registered mail. The item was ultimately returned to the landlords with a notation on the envelope documenting that the item was “refused” by recipient.

Issue(s) to be Decided

Whether the landlords are entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

A written tenancy agreement in evidence shows a fixed term tenancy from June 1, 2010 to May 31, 2011. However, the landlord testified that prior to this particular fixed term, the tenants had resided in the unit pursuant to another written agreement for approximately 1 year.

Monthly rent for both fixed terms was \$1,000.00, and a security deposit of \$500.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

While the tenants were required to vacate the unit on May 31, 2011, it was not until July 2, 2011 when they actually moved out. Following this, the landlord testified that she found the unit was not suitable for new renters until cleaning and repairs had been completed. A move-out condition inspection report was not completed.

The tenants provided a forwarding address on July 26, 2011. The landlord testified that pursuant to a telephone conversation with one of the tenants after that, the landlord's understanding was that the tenants had agreed to the landlord's retention of the security deposit. There is no evidence that the tenants filed an application for dispute resolution following the end of tenancy.

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

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, the various aspects of the landlords' claim and my findings around each are set out below.

\$1,000.00: *unpaid rent for June 2011*

I find that as the tenants only paid rent to the end of May 2011, even while they occupied the unit for the entire month of June 2011, the landlords have established entitlement to the full amount claimed.

\$500.00: *unpaid rent / loss of rental income for the period July 1 to 15, 2011*

In part, this aspect of the claim arises out of the condition in which the landlords found the unit after the tenants vacated on July 2, 2011. However, in the absence of the comparative results of move-in and move-out condition inspection reports, I find that the landlords have established entitlement limited to **\$250.00**, or 50% of the amount claimed.

\$391.98: *replacement dryer*

In consideration of normal wear and tear, and the shared use of this appliance with other renters, I find that the landlords have established entitlement limited to **\$98.00**, which is 25% of the amount claimed.

\$653.70: *the difference between costs claimed by the landlord which are broadly associated with plumbing services and water damage, and the amount reimbursed by insurance*

I find that the landlords have established entitlement to the full amount claimed.

\$100.00: *compensation paid to other renters related to the alleged shortage of hot water*

In the absence of any particular provisions set out in any of the written tenancy agreements concerning utilities, or any statements / invoices for utilities, I find that the landlords have failed to meet the burden of proving entitlement to this aspect of their claim. Accordingly, it is hereby dismissed.

\$75.00: *replacement of missing drapes*

In the absence of a receipt in evidence, I find that the landlords have established entitlement limited to **\$37.50**, which is 50% of the amount claimed.

\$50.00: *filing fee*

As the landlords have achieved a measure of success with their application, I find that they have established entitlement to recovery of the full filing fee.

Sub-total: \$2,089.20

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.

I order that the landlords retain the security deposit of **\$500.00**, and I grant the landlords a **monetary order** for the balance owed of **\$1,589.20** (\$2,089.20 - \$500.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$1,589.20**. 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: October 03, 2013

Residential Tenancy Branch

