



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 was scheduled in response to 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 deposit / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

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 landlord, a previous hearing was held in the dispute between these parties on June 18, 2013, with a decision issued by that same date. It appears that the landlord's previous application was identical to his current application. However, in the absence of sufficient details in the previous application, and as a result of the landlord's failure to serve the tenant with copies of all relevant documentation, the landlord's application was dismissed with leave to reapply.

In the decision the Arbitrator documented that the tenant's security deposit "remains in trust, to be administered in accordance with section 38 of the Act." Further, the Arbitrator documented that the landlord would be considered to have received the tenant's forwarding address in writing upon the landlord's receipt of the decision of June 18, 2013. The landlord's application giving rise to the present hearing was filed on July 9, 2013. Accordingly, I find that the landlord's application was filed within the 15 day period described in section 38 of the Act which speaks to **Return of security deposit and pet damage deposit.**

Pursuant to a written tenancy agreement, the tenancy began on March 1, 2012. 2 tenants are named on the tenancy agreement: male tenant "CG" (who is the only tenant named in the landlord's application), and female tenant "KD," whose whereabouts the landlord claims are unknown.

Monthly rent of \$580.00 is due and payable in advance on the first day of each month. The parties were uncertain how much security deposit was collected, even while the tenancy agreement identifies the amount of \$290.00. During the hearing the parties undertook to agree that the amount actually collected was \$250.00. A move-in condition inspection report was not completed.

Tenant "CG" claims he vacated the unit towards the end of November 2012. However, the landlord claims he served tenant "CG" with a 10 day notice to end tenancy for unpaid rent on January 2, 2013. While a copy of the "proof of service" was submitted in evidence, there is no copy of the 10 day notice itself in evidence. It is understood that tenant "KD" vacated the unit sometime toward the end of February 2013.

Whatever the date by when both tenants had vacated the unit, the landlord testified that rubbish and many of their possessions had been left behind. A move-out condition inspection report was not completed.

Documentary evidence in support of the application includes, but is not necessarily limited to, a brown envelope full with miscellaneous receipts, cheques, invoices, utility invoices, and photographs, as well as several pages of similar photocopied documents.

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**

Further, section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, in part as follows:

37(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.

Based on the documentary evidence and testimony of the parties, the various aspects of the landlord's application and my findings around each are set out below.

\$700.00: *miscellaneous repairs to damage to the property*

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 **\$350.00**.

\$720.00 (\$300.00: *unpaid hydro* & \$300.00: *unpaid natural gas* & \$120.00 *unpaid cable*)

In consideration of the amounts claimed which have been rounded off, and in view of the uncertain dates when either or both tenants had vacated the unit, I find that the landlord has established entitlement limited to **\$360.00**.

\$600.00: *unpaid rent*

While a copy of the 10 day notice to end tenancy issued in January 2013 is not in evidence, there appears to be no dispute that rent was not paid for either January or February 2013. Further, as previously noted, dates when either or both tenants had vacated the unit are uncertain, and there is no ledger of any sort in evidence which details the record of rental payments during the tenancy. In the result, on a balance of probabilities I find that the landlord has established entitlement limited to **\$200.00**.

\$200.00: *storage costs, disposal of rubbish*

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

\$50.00: *filing fee*

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

Sub-total: \$1,160.00

I order that the landlord retain the security deposit of **\$250.00**, and I hereby issue a **monetary order** in favour of the landlord for the balance owed of **\$910.00** (\$1,160.00 - \$250.00).

Residential Tenancy Policy Guideline # 13 addresses "Rights and Responsibilities of Co-tenants," in part as follows:

Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement. Co-tenants also have equal rights under the tenancy agreement.

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$910.00**. Should it be necessary, 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: October 09, 2013

Residential Tenancy Branch

