



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MND, MNSD

Introduction

A hearing was conducted by conference call in the presence of the applicants and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a landlord to serve a Tenant by mailing, by registered mail address to the forwarding address provided by the Tenant. The Act provides that it is deemed received 5 days later. I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing on October 4, 2013, by registered mail address to the tenant at the forwarding address that she provided. The landlord testified the tenant failed to collect the package. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined there was sufficient service of the tenant. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on June 26, 2013 and continue on a month to month basis. The tenancy agreement provided that the tenant(s) would pay rent of \$580 per month payable on the first day of each month. The tenant paid a security deposit of \$290 at the start of the tenancy.

The tenant used the rental property as a drug lab. As a result the City of Chilliwack closed the rental property. The tenancy ended on September 30, 2013.

Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord has established a claim in the sum of \$650 for the cost of the City of Chilliwack health and safety inspection.
- b. I determined the landlord has established a claim in the sum of \$2400 for the cost of a consulting firm to remediate and remove the toxic materials from the rental unit.
- c. I determined the landlord is entitled to \$580 for the loss of one month rent.

- d. I determined the landlord is entitled to \$200 for the cost of labor to paint the rental unit and \$108 for the cost of paint materials.
- e. I determined the landlord is entitled to \$150 for the cost of replacing three broken window screens.
- f. The Application for Dispute Resolution claims the security deposit. The landlord is entitled to have the security deposit applied to his proven claims as set out below.
- g. I dismissed the claim for the cost of registered mail as this is a cost of litigation. The only type of cost an arbitrator can award is the cost of the filing fee.

In summary I determined the landlord has established a monetary claim against the tenant in the sum of \$4088 plus the \$50 filing fee for a total of \$4138.

Security Deposit

I determined the security deposit plus interest totals the sum of \$290. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$3848.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: November 14, 2013

Residential Tenancy Branch

