



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Key Marketing Inc.
and [tenant name suppressed to protect privacy]

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. The owner / landlord, and two agents representing the company employed by the owner / landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing by way of registered mail, the tenant did not appear. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail.

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 a previous application by the landlord a hearing was scheduled for September 30, 2013 (file # 809223). A decision was issued by that same date. In summary, the application was dismissed with leave to reapply.

Pursuant to a written tenancy agreement, the fixed term of tenancy is from December 1, 2012 to November 30, 2013. Monthly rent of \$1,300.00 is due and payable in advance on the first day of each month, and a security deposit of \$650.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

On or about May 16, 2013 there was flooding in the unit which was the result of water overflowing from the washing machine. This came to the landlord's attention several

days later on May 21, 2013. Restoration services were contacted and remedial work was promptly begun. The owner / landlord testified that the unit was clearly habitable during the period while restorations were undertaken.

Subsequently, while there is no evidence that the tenant gave notice to end the fixed term tenancy before the end of the fixed term, the tenant had vacated the unit by June 7, 2013. The tenant failed to attend a move-out condition inspection scheduled with the landlord's agent, "TB" and, accordingly, a move-out condition inspection report was completed by "TB" in the absence of the tenant on June 7, 2013. Comments included on the move-out condition inspection report and noted by "TB" include the following:

The property has not been cleaned as per notes. Keys + fob missing / items left in suite - bed frame, crockery + personal items.

Thereafter, by way of text message on June 12, 2013, the tenant provided "TB" with his forwarding address.

The tenant paid no rent for June 2013, and the owner / landlord testified that new renters were found effective from July 1, 2013.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, 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 owner / landlord and 2 agents from the company employed by the owner / landlord, the several aspects of the landlord's claim and my findings follow below.

\$1,300.00: *unpaid rent / loss of rental income for June 2013*

Section 45 of the Act addresses **Tenant's notice**, in part as follows:

45(2) A tenant may end a fixed term 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,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) 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.

I find that the tenant did not comply with the above statutory provisions in ending the fixed term tenancy before the date specified in the tenancy agreement as the end of tenancy, which is November 30, 2013. As new renters were found effective July 1, 2013, I find that the landlord has established entitlement to unpaid rent / loss of rental income for June 2013.

\$150.00: *move-out fee*

I find that despite a provision in the tenancy agreement for payment by the tenant of move-in and move-out fees, the tenant did not pay the move-out fee. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

\$110.00: *fob and key replacement*

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

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.

In view of the tenant's failure to return all fob(s) and key(s) given to him at the start of tenancy, I find that the landlord has established entitlement to the full amount claimed.

\$11,708.44: *emergency repairs*

\$3,894.69: *building repairs*

The owner / landlord testified that the “Emergency Invoice (Revised)” and the “Building Invoice (Revised)” both of which are dated June 25, 2013, do not reflect a current account of actual costs. Accordingly, these aspects of the application are hereby dismissed with leave to reapply.

\$100.00: *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.

Entitlement: \$1,660.00

I order that the landlord retain the security deposit of **\$650.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,010.00** (\$1,660.00 - \$650.00).

Finally, following from certain inquiries made by the owner / landlord and the former agents of the landlord during the hearing, the attention of the parties is drawn to the following particular sections of the Act:

Section 88: **How to give or serve documents generally**

Section 89: **Special rules for certain documents**

Section 90: **When documents are considered to have been received**

Section 71: **Director’s orders: delivery and service of documents**

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,010.00**. 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: January 16, 2014

Residential Tenancy Branch

