



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNR MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 23, 2013, by the Landlord to obtain a Monetary Order for: money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement; for unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee from the Tenants for this application..

The Landlord testified that she personally served each Tenant with copies of the Landlord's application for dispute resolution and Notice of dispute resolution hearing, on October 25, 2013. Based on the submissions of the Landlord I find that each Tenant was sufficiently served notice of this proceeding; therefore, I proceeded in absence of the Tenants.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord submitted evidence that the parties entered into a month to month tenancy that began on June 1, 2013. Rent was payable on the first of each month in the amount of \$1,100.00 and by September 2013 the Tenants had paid a total of \$550.00 as the security deposit.

The Landlord testified that around September 26, 2013, she was contacted by a neighbouring tenant advising that the Tenants were loading their possessions into a truck. The Landlord attended and confirmed that the Tenants were vacating the rental unit without providing her with notice. The Landlord pointed to her evidence which included a copy of the advertisement she posted to try and find replacement tenants as soon as possible. Despite her efforts she was not able to re-rent the unit until December 1, 2013.

The parties attended the rental unit on October 3, 2013 and conducted the move-out inspection, during which the Tenants signed the condition inspection report form agrees

to pay the Landlord \$2,088.96. That amount included accumulated unpaid rent and loss of rent up to October 1, 2013, of \$1,725.00; \$166.56 for utilities; \$175.00 for cleaning; and \$22.40 for cost of curtains.

The Landlord stated that the Tenant P.D. signed the condition form agreeing to their security deposit being applied to the amount owing and a few minutes later gave the Landlord \$100.00 cash as payment towards the debt. The Landlord said she is seeking the monetary order for the balance due of \$1,438.96 plus the filing fee.

Analysis

Upon consideration of the evidence before me, in the absence of any evidence from the Tenants who did not appear, despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their documentary evidence.

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement;
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation;
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Only when the applicant has met the burden of proof for all four criteria will an award be granted for damage or loss.

Section 45 of the Act stipulates that a tenant may end a periodic tenancy by providing the landlord with one month's written notice.

Section 32 (3) of the Act provides that a tenant of a rental unit 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.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Based on the aforementioned I find the Tenants have breached sections 45, 32(3) and 37(2) of the Act, ending the tenancy without proper notice and by leaving the rental unit unclean and with some damage at the end of the tenancy.

As per the foregoing I find the Landlord has met the burden of proof and I award them **\$2,088.96**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit plus interest as follows:

Loss of rent, utilities, cleaning and damages	\$2,088.96
Filing Fee	<u>50.00</u>
SUBTOTAL	\$2,138.96
LESS: Tenants' cash payment on Oct. 3/13	-100.00
LESS: Security Deposit \$550.00 + Interest 0.00	<u>-550.00</u>
Offset amount due to the Landlord	<u>\$1,488.96</u>

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$1,488.96**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia 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 31, 2014

Residential Tenancy Branch

