



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on February 13, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there other losses or damages and is the Landlord entitled to compensation?
2. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on June 1, 2013 as a fixed term tenancy with an expiry date of June 1, 2014. Market rent was \$725.00 per month payable in advance of the 1st day of each month. The Landlord and the Tenant signed a rent incentive agreement that reduced the rent by \$91.00 per month on the basis that the tenancy was completed for the full 1 year term. The rent incentive agreement says if the Tenant breaks the tenancy agreement then the Tenant must pay the incentive back to the Landlord. As well the Tenant paid a security deposit of \$362.50 in advance of the tenancy. The Landlord said the Tenant gave notice by email on December 18, 2013 that he was moving out of the unit at the end of January, 2014. The Tenant moved out of the rent unit on January 29, 2014.

The Landlord said that because the Tenant broke the tenancy agreement the Tenant owes the Landlord the following amounts:

1. Liquidated damages of \$350.00 as per clause 4 of the Tenancy agreement in which the Tenant agreed to pay the costs of re-renting the rental unit if the Tenant ends the tenancy prior to the expiration date on the tenancy agreement. The Landlord said the Tenant end the tenancy 4 month prior to the expiration date of June 1, 2014.
2. Recovery of the rent incentive of \$91.00 for 8 month in the amount of \$728.00 as agreed to in the rent incentive agreement. The Landlord said the agreement states that if the tenancy agreement is broken the Tenant is responsible to repay all the rent incentive received.
3. As well the Landlord is claiming \$40.00 in cleaning charges as agreed to by the Tenant in the move out inspection report dated January 29, 2014.

The Landlord said her total claim is \$1,118.00 in loss or damage and the recovery of the \$50.00 filing fee for this proceeding.

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has proved the loss existed and she verified the losses by providing the rental agreements and receipts for the claims that the Landlord has made. I accept the Landlord's Agent's testimony that these damages and losses were caused by the Tenant and the costs were reasonable amounts. Consequently, I find the Landlord has established grounds to be awarded the liquidated damages of \$350.00, to recover the rent incentive of \$728.00 and for cleaning in the amount of \$40.00. I award the Landlord a total of \$1,118.00 for damages and losses.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in payment of the damages. The Landlord will receive a monetary order for the balance owing as following:

	Rent incentive recovery:	\$ 728.00
	Liquidated damages	\$ 350.00
	Cleaning charges	\$ 40.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$1,168.00
Less:	Security Deposit	\$ 362.50
	Subtotal:	\$ 362.50
	Balance Owing	\$ 805.50

Conclusion

A Monetary Order in the amount of \$805.50 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: May 26, 2014

Residential Tenancy Branch

