



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as 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 the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement signed by the parties on October 15, 2013, the month-to-month tenancy began on November 01, 2013. Monthly rent of \$750.00 was due and payable in advance on the first day of each month, and a security deposit of \$360.00 was collected. The landlord testified that she currently still retains the tenant's security deposit, in addition to cheques issued by the Ministry as payment of rent for November and December 2013. It is understood that the rent cheques have not yet been cashed.

The landlord testified that she assisted the tenant's boyfriend to make some decorative changes within the unit which were requested by the tenant. The tenant's boyfriend seeks compensation from the landlord for the cost of related materials and supplies. The landlord testified that she herself did not incur costs for materials and supplies, and that it was the tenant's boyfriend who made the purchases and who has the receipts.

Despite the changes made within the unit at the tenant's request, the tenant vacated the unit in November 2013 after only several days of living there. The landlord testified that she immediately began online advertising for new renters, but states that it was not until mid January 2014 when she succeeded in finding a new renter. In addition to

compensation for materials and supplies, the landlord seeks compensation for November's rent, loss of rental income for December, and recovery of the filing fee.

As to the tenant's forwarding address, the landlord testified that she received it from the tenant by way of text message on January 15, 2014. The landlord's application for dispute resolution was subsequently filed on that same date.

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

Section 45 of the Act speaks to **Tenant's notice**, and provides in part as follows:

45(1) A tenant may end a periodic 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, and

(b) 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

Section 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and testimony of the parties, I find that the tenant's manner of ending the month-to-month tenancy does not comply with the above statutory provisions. I further find that the landlord undertook to mitigate the loss of rental income

for December 2013 by advertising for new renters in a timely fashion. In the result, I find that the landlord has established entitlement to a claim of **\$1,550.00**, as follows:

\$750.00: *rent for November 2013*

\$750.00: *loss of rental income for December 2013*

\$50.00: *filing fee*

Again, it is understood that the landlord still holds Ministry - issued rent cheques for November and December 2013. Accordingly, I find that there is no requirement for a monetary order to be issued in favour of that landlord for these amounts.

As to recovery of the **\$50.00** filing fee, I hereby order that the landlord retain that amount from the \$360.00 security deposit. I further order that the landlord repay the balance of **\$310.00** (\$360.00 - \$50.00) from the security deposit to the tenant.

As to compensation claimed by the landlord for labour, materials and supplies arising from decorative changes made to the unit, in the absence of a specific breakdown of costs claimed, or receipts, or evidence that any particular costs were incurred by the landlord herself, this aspect of the application is hereby dismissed.

Conclusion

The landlord has established entitlement to rent for November & December 2013, in addition to recovery of the filing fee. As the landlord has Ministry - issued cheques for November and December's rent, and also holds the security deposit, there is a repayment due to the tenant for a portion of the tenant's security deposit.

The landlord's application for other expenses is hereby dismissed.

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 01, 2014

Residential Tenancy Branch

