



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

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

There is no written tenancy agreement in evidence for the tenancy which the landlord recalls began on or about January 01, 2001. Monthly rent is due and payable in advance on the first day of each month. By the time tenancy ended, the monthly rent was \$720.00. A security deposit of \$300.00 was collected near the start of tenancy. A move-in condition inspection report was not completed.

The landlord sold the unit in December 2013, and the new owner took possession effective March 01, 2014. The tenant was aware of the unit's sale, however, no notice to end tenancy was issued by the landlord. By way of email dated January 05, 2014, the tenant gave notice to end tenancy "effective immediately." The tenant did not inform the landlord of her forwarding address, and it was through efforts undertaken by the landlord that the tenant's new address was determined. That address was the one used by the landlord for service of the hearing package which, as previously noted, was "successfully delivered."

Upon entering the unit after the tenant vacated, the landlord determined that there was a need for considerable cleaning. Additionally, the landlord found rubbish and an abundance of discarded possessions left behind by the tenant, all of which had to be removed. A move-out condition inspection report was not completed.

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 affirmed / undisputed testimony of the landlord, in addition to documentary evidence which includes, but is not limited to, email exchanges between the parties, photographs and receipts, the aspects of the landlord's claim and my findings around each are set out below. There is no documentary evidence before me from the tenant.

\$620.00: *unpaid rent for October 2013*

\$720.00: *unpaid rent for November 2013*

\$720.00: *unpaid rent for December 2013*

\$720.00: *unpaid rent January 2014*

I find that the landlord has established entitlement to the total amount of **\$2,780.00** as claimed above.

\$720.00: *unpaid rent / loss of rental income February 2014*

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

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.

I find that the tenant failed to provide notice to end tenancy in compliance with the above statutory provisions. Further, however, the landlord testified that under the circumstances where the new owner was to take possession of the unit effective March 01, 2014, the landlord did no advertising for new renters with regard to February 2014. He also testified that he was unaware of the new owner's plans concerning the unit. In the result, in the absence of any efforts to mitigate the loss of rental income for February 2014, this aspect of the application is hereby dismissed.

\$170.00: *(2 hours x \$85.00 per hour for labour / travel to transfer station; arithmetically corrected from the amount originally shown as \$162.00)*

I find that the landlord has established entitlement limited to **\$40.00**, which is calculated on the basis of 2 hours x \$20.00 per hour.

\$148.00: *transfer station fee*
\$222.50: *(\$135.00 + \$87.50) cleaning in the unit*
\$79.63: *carpet cleaning*
\$22.00: *garbage bags*

I find that the landlord has established entitlement to the total amount of **\$472.13** as claimed above.

\$250.00: *(5 hours x \$50.00 per hour) labour to remove discarded possessions*
\$250.00: *(5 hours x \$50.00 per hour) labour to remove discarded possessions*

I find that the landlord has established entitlement limited to **\$200.00**, which is calculated on the basis of 10 hours x \$20.00 per hour.

\$50.00: *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: \$3,542.13

I order that the landlord retain the security deposit of \$300.00 plus interest of \$19.93 [**total: \$319.93**], and I grant the landlord a **monetary order** for the balance owed of **\$3,222.20** (\$3,542.13 - \$319.93).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,222.20**. Should it be necessary, 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: June 25, 2014

Residential Tenancy Branch

