



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on April 1, 2014, by the Landlords to obtain a Monetary Order for: damage to the unit, site or property; unpaid rent or utilities; and to recover the cost of the filing fee from the Tenants for this application.

The Landlords submitted documentary evidence which indicated that the female Tenant, A.W., was served with copies of the Landlord's application for dispute resolution and Notice of dispute resolution hearing, on April 1, 2014, in person by a process server. The process server signed an affidavit of service which was submitted into evidence by the Landlords. Based on the submissions of the Landlord I find the Tenant A.W. was sufficiently served notice of this proceeding, in accordance with section 89 of the Act; and I proceeded in the Tenant's absence.

The Landlords submitted evidence which indicated the process server was unable to locate or serve the male Tenant, D. H. As D.H. had not been served notice of this proceeding, the Landlords requested to amend their application to remove D.H. and proceed against A.W.

Issue(s) to be Decided

Have the Landlords proven entitlement to a Monetary Order?

Background and Evidence

The Landlords submitted evidence in support of their claim which included; an affidavit of personal service; a copy of the tenancy agreement; and copies of receipts for materials and work to repair the rental unit.

The evidence supported that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on August 1, 2009 and switched to a month to month tenancy after August 1, 2010. The Tenants were required to pay rent of

\$1,700.00 on the first of each month and on July 24, 2009 the Tenants paid \$850.00 as the security deposit.

The Landlords testified that beginning in mid 2010 the Tenants began having trouble paying their rent. They started to short pay the monthly rent and were making cash deposits directly into the Landlords bank account of various amounts but never the full rent amount. Whenever the Landlords would speak with the Tenants they would always come up with some sort of excuse so the Landlords would agree to allow them more time to catch up paying their rent.

The Landlords submitted that in approximately April 2012 they informed the Tenants that they would have to move out as it was obvious that they could not afford the rent. The Tenants vacated the unit by May 15, 2012 at which time they had accumulated a balance owing for unpaid rent of \$21,850.00. The Landlords now seek a monetary order for the unpaid rent.

The Landlords asserted that they paid a total of \$1,372.35 to complete repairs to the rental property. The Landlords stated that the rental unit was built in 2005 and all the materials, fixtures, appliances and window blinds were new at that time.

Upon further clarification of their application for Dispute Resolution the Landlords noted that their claim for damages included \$183.10 to replace the broken blinds, \$224.00 for carpet cleaning, \$180.16 to repair the oven door and element, and \$41.51 for paint and patch work which totalled \$458.77, as per the receipts they provided in evidence.

Analysis

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

Section 26 of the Act stipulates that a tenant must pay rent in accordance with the tenancy agreement; despite any disagreements the tenant may have with their landlord.

Based on the above, I find the Tenants did not pay their rent in accordance with section 26 of the Act. Accordingly, I award the Landlords unpaid rent up to May 15, 2012, in the amount of **\$21,850.00.**

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 32(3) and 37(2) of the Act, leaving the rental unit 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 damages in the amount of **\$458.77**.

The Landlord has been successful with their application; therefore I award recovery of the **\$100.00** filing fee.

Conclusion

At the outset of the proceeding the Landlords amended their application to remove Tenant D.H. as a respondent to this dispute.

The Landlords have been awarded a Monetary Order for **\$22,408.77** (\$21,850.00 + \$458.77 + \$100.00). This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does 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: July 23, 2014

Residential Tenancy Branch

