



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MND, MNDC, FF

Introduction

This hearing concerns an application by the landlords for a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlords are entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is a house. The tenant began cleaning and repairs in the house sometime during July 2012. In their application the landlords state that “no damage deposit or pet damage deposit was asked for as [the tenant] was going to purchase the home.” Further, in their application the landlords state that, “As he was purchasing the house we never did check up on the repairs or maintenance.” In the tenant’s documentary submission he refers to a verbal agreement to “rent to own the residence.” There is no move-in condition inspection report in evidence.

The parties agreed that no payments would be made for either July or August 2012. Thereafter, it was agreed that monthly payments would total \$900.00. Subsequently, a written tenancy agreement was introduced by the landlords and signed by the parties on October 01, 2012. There are only 2 pages of what is a 6 page tenancy agreement document in evidence before me. During the hearing the landlords testified that the tenancy agreement was introduced in order to facilitate the tenant’s dealings with the bank in relation to an application for a loan. In the tenant’s documentary submission he describes being surprised by the introduction of a tenancy agreement.

At some later stage the parties agreed that the monthly payment would be reduced from \$900.00 to \$800.00. Ultimately, in October 2013 the tenant informed the landlords that

he would be vacating the unit effective November 30, 2013. No forwarding address was provided, and there is no move-out condition inspection report in evidence.

The landlords made inquiries to determine the tenant's whereabouts, and filed their application for dispute resolution on March 21, 2014. The landlords seek miscellaneous compensation in the total amount of \$10,000.00. While the landlords have provided figures for monthly amounts paid by the tenant during the period of time while he occupied the unit (total: \$5,023.00), and they seek an unspecified amount of unpaid rent, there are no receipts or invoices submitted in evidence to support the other particular aspects of the landlords' claim described as follows:

\$8,785.00: hydro, ebay and alcohol

\$1,215.00: cleaning and repair after the tenant vacated the unit

In the tenant's documentary submission he disputes the landlords' claim, and argues that the cost of materials and labour for cleaning and repairs within the unit exceeds the amount of unpaid rent. The tenant claims that rent owed to the landlords totals \$2,170.00, but that the total amount of compensation owed by the landlords to the tenant is \$4,625.00. In the result, the tenant calculates the net amount owed to him is therefore \$2,455.00. While the tenant has submitted a detailed breakdown of the monthly amounts paid to the landlords, along with supporting receipts from his financial institution, the tenant has not filed an application for dispute resolution.

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 1 of the Act defines **tenancy agreement**:

“tenancy agreement” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit.

Residential Tenancy Policy Guideline # 27 addresses “Jurisdiction,” and under section 5, **TRANSFER OF AN OWNERSHIP INTEREST**, provides in part:

If the relationship between the parties is that of seller and purchaser of real estate, the Legislation would not apply as the parties have not entered into a

“Tenancy Agreement” as defined in section 1 of the Acts. It does not matter if the parties have called the agreement a tenancy agreement. If the monies that are changing hands are part of the purchase price, a tenancy agreement has not been entered into.

There is no evidence before me of a written agreement between the parties for sale / purchase of the unit. Neither is there any evidence of an agreed upon purchase price, or evidence that specific amounts from monthly payments were considered as down payment(s) and / or put towards a purchase price. In the result, I find that the relationship between the parties is that of landlord - tenant, and not seller - purchaser.

Having reviewed the documentary evidence submitted by both parties, I find that I prefer the tenant's monetary calculations; they are detailed, specific and reflect a higher degree of credibility than the landlords' submission. Based on the documentary evidence and testimony, I find on a balance of probabilities that unpaid rent of **\$2,170.00** is correctly calculated by the tenant. As the landlords have achieved a nominal measure of success with their application, I find that they have established entitlement to recovery of a portion of their \$100.00 filing fee limited to **\$50.00**.

In the absence of sufficient documentary evidence, all remaining aspects of the landlords' claim are hereby dismissed.

As to compensation sought by the tenant, he has the option of filing his own application.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$2,220.00** (\$2,170.00 + \$50.00). 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: July 23, 2014

Residential Tenancy Branch

