



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MND, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss, unpaid rent and alleged damage to the rental unit, for authority to retain the tenants' security deposit and for recovery of the filing fee.

The landlord and tenant DM attended the teleconference hearing, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and no party raised any issue regarding service of the evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The tenant, after a discussion of evidence submissions, requested an adjournment of the hearing.

In assessing whether an adjournment request should be granted the following criteria can be considered pursuant to rule 6.4 of the Rules:

- whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1 [objective and purpose];
- whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- the possible prejudice to each party.

I have denied the tenant's request for an adjournment of this hearing as I find that the need for the adjournment rises due to the tenant's failure to timely prepare for the hearing by submitting evidence and would unduly prejudice the applicant.

Preliminary matter #2-The tenant denied receiving the landlord's application for dispute resolution.

In response to my question, the landlord submitted that he served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on February 25, 2014, using the address provided by the tenants as a forwarding address. The landlord supplied oral evidence of the tracking numbers.

It is clear that the tenant received the notice of hearing, as he was present. I have no evidence that when the tenant received the notice of hearing, he contacted the Residential Tenancy Branch ("RTB"), the contact information for which is listed on the notice, to question the contents of the notice or the purpose of the hearing.

I made the determination that upon a balance of probabilities that the landlord served each tenant with his application and the notice of hearing as required under section 89(1) of the Act, and the hearing proceeded.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation, authorization to retain the tenants' security deposit, and to recover the filing fee?

Background and Evidence

The landlord submitted a copy of the written tenancy agreement showing that this tenancy began October 21, 2011, monthly rent was \$800, and that the tenants paid a security deposit of \$400, which has not been returned.

The landlord's other relevant evidence included copies of an invoice for the carpet cleaning before and after the tenancy.

The landlord's monetary claim is \$1010.94, for unpaid rent of \$800 and carpet cleaning of \$210.94.

In support of his application, the landlord submitted that he did not receive monthly rent for February, and did not know until February 13th or 14th that the tenants had vacated the rental unit. As the tenants failed to provide proper written notice or any notice that they were vacating the rental unit, the landlord suffered a loss of rent revenue for February, in the amount of \$800, according to the landlord.

As to the landlord's claim for carpet cleaning, the landlord pointed to the clause in the written tenancy agreement requiring the tenants to provide a professional cleaning at the end of the tenancy if one was done at the beginning of the tenancy. The landlord submitted that his evidence shows that this was the case.

Tenant's response-

The tenant submitted that they did not vacate the rental unit until February 28, 2014, and that when he returned to the rental unit on February 15, after being on vacation, he discovered that the locks were changed. According to the tenant, he asked the landlord for a viewing and provided his forwarding address.

The tenant submitted that he possessed an email showing that rent for February was paid.

The tenant submitted that the carpet was vacuumed, that the cigarette burns in the carpet were there at the beginning of the tenancy, and that he was informed by the landlord that he was replacing the carpet with hardwood.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, I find the landlord submitted sufficient evidence that the tenants owed monthly rent for February 2014, under the tenancy agreement, and that they failed to do so. In reaching this conclusion, I was further persuaded by tenant's lack of proof that rent was paid for this month, even though he said he did have such evidence, and it was clear, by the tenant's own testimony, that the tenants occupied the rental unit through at least a portion of February.

I therefore find the landlord is entitled to a monetary award of \$800.

As to the carpet cleaning, I find the landlord submitted sufficient evidence that the carpets were professionally cleaned at the beginning of the tenancy; therefore I find the tenants were responsible for professionally cleaning the carpets at the end of the tenancy pursuant to the tenancy agreement and failed to do so.

I must also note that I took into account that the invoices supplied by the landlord showing the professional cleaning confirm that only the three bedrooms were cleaned and that they, along with the living room were professionally cleaned at the end of the tenancy. At the end of a tenancy lasting at least a year, the tenant is responsible for shampooing or steam cleaning the carpet, according to Residential Tenancy Branch Policy Guideline #1. Therefore I paid no particular note that the ending invoice showed an additional room as being professionally cleaned, resulting in the same decision.

I therefore find the landlord has proven a monetary claim in the amount of \$210.94.

I also award the landlord recovery of the filing fee of \$50.

I therefore find the landlord is entitled to a monetary award of \$1060.94, comprised of unpaid rent of \$800, carpet cleaning for \$210.94, and recovery of the filing fee of \$50.

Conclusion

The landlord's application for monetary compensation is granted.

At the landlord's request, I authorize the landlord to retain the tenants' security deposit of \$400 in partial satisfaction of his monetary award of \$1010.94

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$660.94, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay, the monetary order may be served upon the tenants and filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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 23, 2014

Residential Tenancy Branch

