



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:45 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord entered sworn oral testimony and written evidence that she sent the tenant a copy of the landlord's dispute resolution hearing package and written evidence package by registered mail on April 17, 2014. She provided copies of the Canada Post Tracking Number to confirm the registered mailing. She said that the Canada Post Online Tracking Records show that the packages were received. In accordance with sections 89(1) and 90 of the *Act*, I find that the tenant was deemed served with the landlord's dispute resolution hearing package on April 22, 2014, the fifth day after its mailing. I am also satisfied that the landlord served the tenant with copies of the landlord's written evidence in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

On August 26, 2013, the parties signed a six-month fixed term Residential Tenancy Agreement (the Agreement), which took effect on September 1, 2013. At the expiration of the initial term, the tenancy continued as a periodic tenancy. Monthly rent was set at \$1,050.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$525.00 security deposit paid on August 26, 2013.

The landlord gave undisputed sworn oral testimony that she received the tenant's written notice to end this tenancy on April 2, 2014. In that notice, the tenant advised that he had vacated the rental unit on April 1, 2014. She said that she took possession of the rental unit on April 2, 2014.

The landlord's application for a monetary award of \$1,216.40 included the following items:

| Item | Amount |
|---------------------------------|-------------------|
| Unpaid April 2014 Rent | \$1,050.00 |
| Carpet Cleaning | 102.40 |
| Cleaning and Cleaning Materials | 54.00 |
| Replacement of Laundry Card | 10.00 |
| Total of Above Items | \$1,216.40 |

The landlord also requested the recovery of the landlord's \$50.00 filing fee.

The landlord testified that the landlord undertook efforts to find a new tenant for this rental unit as soon as she received the tenant's notice to end this tenancy. These efforts included placing advertisements on the landlord's rental website, in the local community newspaper, and on Craigslist. She said that she started showing the rental unit to prospective tenants on April 3, 2014. She testified that on or about April 17, 2014, she was able to enter into a new Agreement with a tenant who took possession of the rental unit on May 1, 2014, at the same \$1,050.00 monthly rent as was being paid by the tenant. The landlord also entered into written evidence copies of receipts for carpet cleaning, cleaning and cleaning materials, and the replacement of the tenant's laundry card.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 45(1) of the *Act* requires a tenant to end a periodic tenancy by giving the landlord notice to end the tenancy the day before the day in the month when rent is due. In this case, in order to avoid any responsibility for

rent for April 2014, the tenant would have needed to provide his notice to end this tenancy before March 1, 2014. Section 52 of the *Act* requires that a tenant provide this notice in writing. Based on the undisputed evidence presented by the landlord, I find that the tenant did not comply with the provisions of section 45(1) of the *Act* to provide adequate notice to end this tenancy.

There is undisputed evidence that the tenant did not pay any rent for April 2014. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss. Based on the evidence presented, I accept that the landlord did attempt to the extent that was reasonable to re-rent the premises for April 2014. As such, I am satisfied that the landlord has discharged the duty under section 7(2) of the *Act* to minimize the tenant's exposure to the landlord's loss of rent for April 2014. For these reasons, I allow the landlord a monetary award of \$1,050.00 to recover the landlord's loss of rent for April 2014.

Based on the landlord's undisputed evidence, I find on a balance of probabilities that the landlord incurred damage resulting from the tenant's failure to properly clean the rental unit at the end of this tenancy. I issue a monetary award in the amounts of \$102.40 for carpet cleaning, and \$54.00 for general cleaning and cleaning materials. I also allow the landlord's application to recover \$10.00 for the replacement of a laundry card.

I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee for his application from the tenant.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, damage and the filing fee, and to retain the tenant's security deposit:

| Item | Amount |
|---------------------------------|-----------------|
| Unpaid April 2014 Rent | \$1,050.00 |
| Carpet Cleaning | 102.40 |
| Cleaning and Cleaning Materials | 54.00 |
| Replacement of Laundry Card | 10.00 |
| Less Security Deposit | -525.00 |
| Filing Fee | 50.00 |
| Total Monetary Order | \$741.40 |

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: August 18, 2014

Residential Tenancy Branch

