



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF, MNDC

Introduction

There are applications filed by both parties. The landlord seeks a monetary order for damage to the unit, site or property, for unpaid utilities, to keep all or part of the security deposit and recovery of the filing fee. The tenant also seeks a monetary order for money owed or compensation for damage or loss, the return of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

At the outset of the hearing the landlord amended the monetary amount to \$350.25 from the amount applied for of \$412.28. The tenant made no objections and confirmed the landlord's amended monetary claim.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?
Is the landlord entitled to retain the security deposit?
Is the tenant entitled to a monetary order?

Background and Evidence

This tenancy began on November 1, 2013 on a fixed term tenancy ending on November 1, 2014 as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,200.00 payable on the 1st of each month and a security deposit of \$600.00 was paid on October 9, 2013.

The landlord states that the tenant breached the signed tenancy agreement by prematurely ending the tenancy on . The landlord states that the tenant failed to provide any notice to vacate the rental unit. The landlord states that she immediately began advertising the rental and had to drive up to whistler to interview the new tenant. The landlord seeks a monetary claim of \$350.25, which consists of \$119.64 for unpaid hydro for April/May, \$80.61 for June hydro, \$100.00 for cleaning to the rental unit for dog paw prints on a couch, \$20.00 for advertising to re-rent the unit. The landlord withdrew her claim for the cost of driving to whistler of \$80.00. The landlord has provided copies of hydro invoices for the \$119.64 and \$80.61 amounts due.

The tenant conceded that there is hydro costs owing, but states that she has not received any details concerning the landlord's monetary claim. The landlord confirmed that she sent the submitted documentary evidence by Canada Post Registered Mail and has provided a copy of the Canada Post Customer Tracking Receipt. The tenant states that she has not received this package, but has confirmed the address for service that the landlord sent the package. A review of the Canada Post Registered Mail Tracking notice shows that the notice was accepted for delivery on October 10, 2014, an attempted service was made on October 17, 2014 where a notice card was left for recipient to pick up the package. On October 22, 2014 another attempt of service was made where a final notice card was left for the recipient to pick up the package or the package would be returned to the sender. The tenant has disputed the remaining portions of the landlord's monetary claim stating that unit was left clean and that she has not received any particulars from the landlord on cleaning or advertising costs. The landlord stated that the advertising costs were on 4 occasions at \$5.00 per online transaction to list the rental unit.

The tenant seeks a monetary claim of \$1,034.04 which consists of \$600.00 for the return of the security deposit, \$600.00 for the return of ½ of the monthly rent as the unit was under renovations. The tenant states that she owes \$165.96 in hydro and has conceded this cost owed to the landlord.

The landlord disputes the tenants claim that she was forced to move out and states that the tenant failed to provide proper notice to vacate the rental unit. Both parties agreed that the tenant emailed the landlord on June 5, 2014 that she would be ending the tenancy. The tenant states that she was agreeing to the landlord's proposal to end the tenancy on June 15, 2014 in a telephone conversation. The landlord disputes this stating that the landlord was still in the process of finding a replacement tenant and had not agreed to an early end to the tenancy. The tenant states that because of stair and deck renovations she was forced to move out as there would be no access. Both parties confirmed that the strata failed to properly provide notice of the stair and deck

renovations that occurred. Both parties agreed that the renovation work took 4 days between June 15 and 19. The landlord states that she talked to the contractor who informed her that the tenant volunteered to vacate the rental unit so that the contractor could begin work earlier. The tenant confirmed in her direct testimony that she was under the impression that she had to leave by the 15th due to the renovation work. Both parties agreed that the tenant did not receive any notification of stair/deck renovation work from the strata or contractor.

Analysis

I accept the evidence provided by both parties and find that the landlord has established a monetary claim. The landlord has provided copies of hydro invoices totalling, \$200.25, which the tenant states that she did not receive a copy of the second invoice, but does not dispute that hydro is owing and is the tenant's responsibility. As such, I find that the landlord has established a monetary claim of \$200.25 for hydro based upon these invoices.

The landlord's claim for \$100.00 for cleaning has failed. The tenant has disputed this claim stating that the rental unit was clean. The landlord did not complete a condition inspection report for the move-in or the move-out. Moreover the landlord relies solely on a letter from the strata which shows that the tenant had a dog, which the tenant has not disputed. The landlord has not provided any evidence that there was a stain on the couch or that costs incurred were for \$100.00 for cleaning. This portion of the landlord's claim is dismissed.

The landlord's claim for \$20.00 in advertising costs is denied as the landlord has failed to provide sufficient details of this costs in any form, ie. invoice/receipt as the tenant has disputed this claim and has not been provided with any particulars of the claim.

On the tenant's claim of \$600.00 for the return of ½ of the June 2014, I find that the tenant has failed to provide sufficient evidence to satisfy me that she was "forced out". Although both parties confirmed that the renovation work took place for 4 days between June 15 and 19, I find that the tenant volunteered to vacate the rental unit. The tenant has not provided sufficient evidence to show that she was "forced out" due to the contractor or the landlord due to construction work. The tenant's monetary claim is dismissed.

In offsetting these claims, I find that the landlord has established a total monetary claim of \$200.25. The tenant is entitled to the return of the remaining portion of the security deposit. I order that the landlord retain \$200.25 from the \$600.00 security deposit

currently held by the landlord. As both parties have been only partially successful in their applications, I decline to make any order regarding the recovery of the filing fees for both parties.

The tenant is granted a monetary order for \$399.75 for the return of the remaining portion of the security deposit. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord may retain \$200.25 from the security deposit.
The tenant is granted a monetary order for \$399.75.

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: October 29, 2014

Residential Tenancy Branch

