



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage or loss and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on August 1, 2014 copies of the Application for Dispute Resolution and Notice of Hearing and evidence were sent to the tenant by registered mail. The landlord used the address provided by the tenant at the end of the tenancy, June 2014. A Canada Post tracking number and receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 and 90 of the *Act*; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$200.00 for a strata fine?

Background and Evidence

The tenancy commenced on December 1, 2012. The tenant paid \$565.00 each for security and pet deposits. A copy of the tenancy agreement was supplied as evidence.

A copy of the Form K, signed by the tenant on September 2013 confirming the tenant had received the strata bylaws, was supplied as evidence.

The landlord read from bylaw Clause 3; which imposes a \$200.00 fine if a tenant causes an unreasonable disturbance to others.

The tenant vacated in June 2014; both deposits were returned to the tenant.

On June 10, 2014 the landlord received a letter from his strata council property management company informing the landlord his tenant had caused a disturbance on May 16, 2014. The letter indicated that the landlord had the right to respond. The landlord spoke to the tenant who confirmed a disturbance had occurred in her unit on that date. The landlord was left with the impression the tenant would resolve the issue with the strata council.

On July 21, 2014 a statement was issued to the landlord, imposing a \$200.00 fine. The tenant had not paid the fine. A copy of the statement was supplied as evidence.

The landlord provided a copy of an October 20, 2014 receipt issued for payment to the property management company in the sum of \$200.00. The landlord tried to talk to the tenant over the phone but the tenant did not pay the fine.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

I find, on the balance of probabilities, that the tenant is responsible for the strata fine.

The tenant received a copy of the bylaws; confirmed when she signed the Form K document. From the testimony of the landlord, in the absence of the tenant who was served with Notice of this hearing, I find that the tenant acknowledged that a disturbance originated from her unit and that she would approach the strata council to settle the matter. The tenant was aware of the possible consequences and was at liberty to ask the landlord to approach the strata council with a request the fine not proceed; that did not occur.

Therefore, as the tenant breached the terms of the tenancy I find the landlord is entitled to compensation in the sum of \$200.00 as a result of the disturbance that occurred on May 16, 2014.

As the landlord's application has merit I find the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$250.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation in the sum of \$200.00.

The landlord is entitled to filing fee costs.

This decision is final and binding and 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: February 23, 2015

Residential Tenancy Branch

