



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNR, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order. Despite having been served with the application for dispute resolution via registered mail sent on August 8, 2014 and personally in January 2015, the tenant did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on November 3, 2013 at which time the tenant paid a \$425.00 security deposit and ended on July 22, 2014. It was set to run for a fixed term ending November 1, 2014 and rent was set at \$850.00 per month. The tenancy ended when the tenant's rent cheque for the month of July was returned by the bank for insufficient funds and the tenant vacated the unit without notice.

The landlord seeks to recover \$850.00 in unpaid rent for the month of July 2014 and \$850.00 in loss of income for the month of August 2014 as he was unable to re-rent the unit until September despite having immediately advertised upon learning that the tenant was leaving the unit.

The landlord testified that the tenant's rent cheques in the months of January and July 2014 were both returned by the bank for insufficient funds and he seeks to recover \$25.00 in NSF fees for each of those incidents.

The landlord testified that the tenant failed to clean the rental unit at the end of the tenancy and that as a result, he incurred costs of \$147.53 for carpet cleaning and

\$200.00 for apartment cleaning. The landlord submitted these invoices as well as photographs showing the condition of the rental unit at the end of the tenancy. The landlord seeks to recover these costs.

The landlord testified that his arrangement with tenants is that he will pay strata property fees for moving in and out of the rental unit, but if they break their lease, he expects them to pay those fees. The landlord testified that he was charged \$75.00 for when the tenant moved in to the rental unit and another \$75.00 when the tenant vacated and seeks to recover these costs.

The landlord testified that the tenant did not return the parking pass that was issued to him and seeks an award of \$25.00. The landlord said that he was not charged this amount of money to replace the pass, but said that it was his standard practice to charge this fee to tenants who did not return their pass.

The landlord seeks to recover the costs associated with reproducing photographs for this hearing and the cost of registered mail to serve documents on the tenant. He also seeks to recover the \$50.00 filing fee paid to bring his application.

Analysis

I accept the landlord's undisputed testimony. I find that the tenant was contractually obligated to pay rent for the month of July and he failed to do so. I find the landlord is entitled to recover that unpaid rent and I award him \$850.00.

I find that the tenant was obligated to continue paying rent until November 1, 2014, the expiry of the fixed term lease, and I find that he broke the fixed term early without legal reason to do so. I find that as a direct result of his failure to comply with the terms of the tenancy agreement, the tenant caused the landlord to lose income for the month of August. I find that the landlord acted reasonably to minimize his losses for August by advertising the unit as quickly as possible. I find that the tenant must be held responsible for the landlord's loss of rent and I award the landlord \$850.00.

Sections 7(1)(c) provides that a landlord may charge a tenant fees which are charged by the landlord's financial institution for NSF cheques and section 7(1)(d) provides that an administration fee of up to \$25.00 may be charged for NSF cheques if this term is in the tenancy agreement. In this case, the tenancy agreement does not provide for an administration fee, but simply states that the tenant is responsible for "returned cheque charges". I find that the tenant's cheques in the months of January and July 2014 were returned NSF and I find that the landlord was charged \$7.00 per cheque by his financial institution. I find that the tenant is liable for those charges but cannot be charged any

further fees as the tenancy agreement does not contain that provision. I award the landlord \$14.00.

Section 37(2) of the Act requires tenants to leave the rental unit in reasonably clean condition and undamaged except for reasonable wear and tear. The landlord's photographs show that the rental unit was not cleaned at the end of the tenancy. I find that the carpet and the rest of the apartment required cleaning due to the tenant's failure to comply with the requirements of section 37(2). I find that the landlord's loss is directly attributable to that failure and I find that he is entitled to recover the costs of carpet cleaning and suite cleaning. I award him \$147.53 and \$200.00 respectively for these costs.

I dismiss the landlord's claim for the strata's move in and move out fees. The landlord represented to the tenant that he would cover those fees and there is nothing in the tenancy agreement which provides that should the tenant break the lease, those fees would be payable. Even if there were, I find that it would have been a penalty which is not permitted under the Act.

I also dismiss the landlord's claim for the parking pass charge. The landlord has apparently not suffered any loss but just wishes to charge this fee because he was inconvenienced. There is no provision under the Act whereby the landlord can be compensated for inconvenience that does not result in out-of-pocket expenses.

As for the landlords' claim for the cost of developing photographs and cost of sending documents to the tenant via registered mail, I dismiss that claim as the only litigation related expense I am empowered to award under the Act is the cost of the filing fee.

As the landlord has been substantially successful in his claim, I find he should recover the filing fee and I award him \$50.00.

In summary, the landlord has been successful as follows:

July rent	\$ 850.00
August loss of income	\$ 850.00
NSF bank fees	\$ 14.00
Carpet cleaning	\$ 147.53
Suite cleaning	\$ 200.00
Filing fee	\$ 50.00
Total:	\$2,111.53

The landlord has been awarded \$2,111.53 and I grant him a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

I note that the landlord holds a \$425.00 security deposit. The landlord is welcome to retain the security deposit in partial satisfaction of the claim which will bring the enforceable amount of the enclosed order to \$1,686.53.

Conclusion

The landlord is granted a monetary order for \$2,111.53.

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: February 27, 2015

Residential Tenancy Branch

