



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 MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on August 12, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?

- Is the landlord permitted to keep the security deposit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The landlord's agent (the landlord) testified that this tenancy started on September 01, 2012 for a fixed term tenancy of one year. At the end of the first year the tenancy reverted to a month to month tenancy. Rent for this unit was \$830.00 per month due on the 1st of each month. The tenant paid a security deposit of \$415.00 at the start of the tenancy.

The landlord testified that the tenant failed to pay rent for July, 2014 leaving an unpaid balance of \$830.00. The tenant's rent cheque was returned due to insufficient funds (NSF) and the amount of \$25.00 was applied to the tenant's account due to the NSF cheque. A further amount of \$25.00 was applied to the tenant's account as rent was not paid on July 01, 2014. The landlord referred to clause six of the tenancy agreement which details these charges. The landlord seeks to recover the amount of \$880.00.

The landlord testified that the tenant failed to have the carpets cleaned at the end of the tenancy as indicated in the move out condition inspection report. This report also indicated that the unit was not left in a reasonable clean condition. The landlord refers to the move out report in which the tenant has signed to agree the landlord may deduct from the security deposit the outstanding rent and fees of \$880.00; the carpet cleaning fees of \$90.00 and the cleaning costs including supplies of \$96.00.

The landlord seeks a Monetary Order to recover the balance of these costs of \$651.00 and the \$50.00 filing fee.

Analysis

Section 26 of the *Act* states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied that the tenant failed to pay rent for July and consequently the landlord is entitled to recover the outstanding rent of **\$830.00**.

With regard to the landlord's claim to recover \$50.00 for late fees and NSF fees for July 2014; I refer the parties to the Residential Tenancy Regulations s. 7(1)(d) and s. 7(2)(e) which states:

7 (1) A landlord may charge any of the following non-refundable fees:

(d) subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;

(2) A landlord must not charge the fee described in paragraph (1) (d) or (e) unless the tenancy agreement provides for that fee.

I have reviewed the tenancy agreement and find there is sufficient evidence to show that the tenancy agreement does provide for late fees and NSF fees to be charged in any month in which rent is late or a rent cheque has been returned by the tenant's bank due to insufficient funds. Consequently, pursuant to s. 7(1)(d) of the regulations, I find in favor of the landlord's claim to recover a late fee of **\$25.00** and an NSF fee of **\$25.00**.

With regard to the carpet cleaning and general cleaning; the tenant has agreed the landlord may deduct these charges from the security deposit. As the tenant has agreed in writing to these charges being deducted from the security deposit I am not required to make a decision in this matter. I have therefore deducted the amounts of **\$90.00** for carpet cleaning and **\$96.00** for general cleaning from the security deposit.

As the landlord has been successful with their application I find the landlord is also entitled to recover the filing fee of **\$50.00** pursuant to s. 72(1) of the *Act*.

A Monetary Order has been issued to the landlord for the following amount:

Unpaid rent	\$830.00
NSF and late fees for July, 2014	\$50.00
Carpet cleaning and general cleaning	\$186.00

Filing fee	\$50.00
Subtotal	\$1,116.00
Less security deposit	(-\$415.00)
Total amount due to the landlord	\$701.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$701.00** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the respondent. If the respondent fails to pay the Order, the Order is enforceable through the Provincial Court as an Order 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: March 02, 2015

Residential Tenancy Branch

