



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on January 13, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is there a loss or damage and if so how much?
4. Is the Landlord entitled to compensation for the loss or damage and if so how much?
5. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on March 1, 2014 as a fixed term tenancy with an expiry date of February, 2015. Rent was \$1,100.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$550.00 on February 12, 2014. The Landlord said the Tenant moved out of the rental unit on January 3, 2015. The Tenant said she moved out of the unit on December 31, 2015 and then cleaned the unit in the first 3 days of January, 2015. The tenancy ended as a result of a 10 Day Notice to End Tenancy for Unpaid Rent.

The Landlord said a move in condition inspection was completed and signed on February 27, 2014 and a move out inspection was completed on January 3, 2015 with

the Tenant in attendance but the Tenant signed the report as not agreeing to the information on the report.

The Landlord said that the Tenants did not pay \$1,050.00 of rent for December, 2014. The Landlord said she issued a 10 Day Notice to End Tenancy dated December 3, 2014, which is in the Landlord's hearing package. The Landlord continued to say a previous decision on this tenancy found that the Tenant had submitted a forged receipt for the December, 2014 rent payment. The Landlord said the December, 2014 rent of \$1,050.00 has not been paid.

Further the Landlord said the tenancy agreement has a move out fee of \$50.00 written into the tenancy agreement that she is claiming as the Tenant has not paid this fee to the strata or to the Landlord.

As well the Landlord said the Tenant has \$250.00 in fines from the Strata. The Landlord said copies of the fine letters are included in the Landlord's evidence package.

In addition the Landlord said she is also claiming \$238.88 for cleaning costs as the Tenant did not leave the unit in a clean condition. The Landlord said the carpets were dirty, the unit smelled of smoke, the stove was not clean and there was damage to the cupboards. The Landlord provided photographs and the move in and move out condition inspection report to support her claims.

The Tenant said she paid the December, 2014 rent and the previous Arbitrator did not prove the receipt was a forgery. The Tenant said she did not send the receipt in for this hearing because the movers lost it and she thought the evidence from one hearing would carry forward to the next hearing. The Tenant said she paid the December, 2014 rent in cash and got a receipt for it.

Further the Tenant said she does not smoke and no one smoked in the rental unit so she said the fines do not apply to her. As well the Tenant said she cleaned the unit with two other people and it was clean when she moved out.

The Tenant provided a witness A.T. (the Tenant's mother) who helped clean the rental unit. The Witness A.T. said they cleaned the rental unit quit well and although the carpets were dirty the unit was clean enough. The Landlord asked the witness A.T. if she noticed the damage to the cupboards and unclean stove. The Witness A.T. said she did not notice those things. The Landlord continued to say the move in condition inspection report indicates everything was clean and in good condition on move in and the move out condition inspection report and photographs indicate the unit is unclean and damaged on move out.

The Tenant said in closing that the Landlord was always trying to evict her and when she moved out the rental unit was clean and undamaged. As well the Tenant said when she moved in the rental unit was only good enough it was not good. The carpets were

not clean and the unit was not freshly painted. The Tenant said that she does not owe any rent or fines and she left the rental unit clean.

The Landlord said in closing that her evidence shows the Tenant did not clean the unit and that the Tenant has not paid the December, 2014 rent and there are a number of strata fines that the Tenant is responsible for.

The Landlord also requested to recover the \$50.00 filing fee for his application.

Analysis

Section 26 says 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.

Section 45 of the Act says a Tenant may end a fixed term tenancy not earlier than the date specified in the tenancy agreement and it must be with written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

As I do not have copy of the rent receipt and the receipt has been reviewed and found to be a false receipt in the decision of December 23, 2014; I find for the Landlord and award the Landlord the rent for December, 2014 in the amount of \$1,050.00.

For a monetary claim for damage or loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation of the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has provided receipts for her claim of cleaning in the amount of \$238.88. I accept the condition inspection reports and the Landlord's photos as evidence that the rental unit was not left in a clean condition. The tenancy agreement has a clause (#44) that it is agreed by the parties that the Tenant will pay the \$50.00 move out fee. Further the Landlord has documented strata fines in the amount of \$250.00. I find that the Landlord has established grounds to claim all of these amounts. I award the Landlord the \$50.00 move out fee, the \$238.88 cleaning costs and the \$250.00 strata fines for a total amount of damages of \$538.88.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

| | | |
|-------|--------------------|-------------|
| | Rent arrears: | \$ 1,050.00 |
| | Cleaning | \$ 238.88 |
| | Strata fines | \$ 250.00 |
| | Move out fee | \$ 50.00 |
| | Recover filing fee | \$ 50.00 |
| | Subtotal: | \$1,638.88 |
| Less: | Security Deposit | \$ 550.00 |
| | Subtotal: | \$ 550.00 |
| | Balance Owing | \$ 1,088.88 |

Conclusion

A Monetary Order in the amount of \$1,088.88 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: June 22, 2015

Residential Tenancy Branch

