



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:

MND; MNR; MNDC; MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent and damages; compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit in partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent testified that she mailed the Notice of Hearing documents, by express post, on November 18, 2014. The Tenant acknowledged service of the documents. The Landlord's agent testified that she mailed copies of the Landlord's documentary evidence to the Tenant, by registered mail, which the Tenant also acknowledged receiving.

The Tenant did not provide any documentary evidence to the Residential Tenancy Branch or to the Landlord prior to the Hearing; however, I allowed the Tenant to provide the Branch and the Landlord with evidence (an invoice) within 5 days of the date of the Hearing. I also ordered the Landlord to provide rebuttal evidence, if any, to the Branch and the Tenant, within 5 days of receipt of the Tenant's evidence. The Tenant provided the Branch and the Landlord with her documentary evidence, by fax on June 30, 2015. The Landlord did not provide rebuttal evidence.

Issues to be Decided

- Is the Landlord entitled to compensation for loss of revenue for November 1 and 2, 2014; for the cost of cleaning the rental unit and shampooing the carpets; for the cost of replacing two broken windows; and for the cost of furniture removal?
- May the Landlord deduct its monetary award from the security deposit?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. The Landlord's agent stated that the Landlord's name changed in May, 2014, from the name on the tenancy agreement to the Landlord's name.

This tenancy began on November 1, 2005. At the end of the tenancy, monthly rent was \$1,380.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$650.00 on October 11, 2005.

The Landlord's agent, LV gave the following testimony:

LV testified that the Landlord received the Tenant's notice to end the tenancy on September 30, 2014, effective October 31, 2014, but the Tenant and the occupants overheld for two days. The Landlord seeks compensation for 2 days' rent.

LV stated that the parties met on November 3, 2014, for a move-out inspection, but that the Tenant refused to sign the Condition Inspection Report. LV stated that the Tenants returned the keys to the rental unit on November 4, 2014.

LV testified that the Tenant did not shampoo the carpet, or clean the rental unit. She stated that the Tenant left furniture at the rental property, which had to be removed. LV stated that the Tenants also broke two windows, but that the Landlord was asking to withdraw its claim for the broken windows because it did not provide the invoices in its documentary evidence. Therefore, the Landlord's claim is as follows:

2 days' rent	\$92.00
Carpet shampooing	\$140.00
Cleaning (labour and materials)	\$144.00
Furniture removal	<u>\$153.40</u>
TOTAL	\$529.40

The Landlord provided receipts for the cost of furniture removal, cleaning, and carpet shampooing.

The Tenant gave the following testimony:

The Tenant stated that she moved out of the rental unit on October 31, 2014, and that she was not present for a move-out inspection because the Landlord did not arrange an inspection at the end of the tenancy. The Tenant stated that she was moving to Toronto, and left Richmond at 6:00 a.m. on October 31, 2014, arriving in Valemount in the evening. The Tenant stated that she has an invoice for her overnight stay in Valemount on October 31, 2014. The Tenant testified that she left the keys to the rental unit under the rental unit's door because there was no one there to take them from her on October 31, 2014.

The Tenant stated that the bedroom window was broken when the Tenant moved into the rental unit and that the maintenance man broke the bathroom window when he tried to fix a lever.

The Tenant stated that the carpet was "destroyed" before the Tenant moved in and that the Landlord had promised to replace the carpet but never did. She stated that the Landlord did not

maintain the plumbing in the rental unit and that as a result there was a leak. The Tenant stated that the water tank broke “3 months before we moved out” and that the maintenance man broke the threshold removing the old tank. She stated that the water ruined the Tenant’s Persian rug which was covering the old carpet. She stated that the rug “bled into the carpet”. The Tenant testified that she steam cleaned the carpet at the end of the tenancy.

The Tenant acknowledged leaving a mini fridge, TV and BBQ at the rental property, which were all in good working order. She stated that she would have moved them but that the building manager said to leave them because he wanted them.

LV gave the following response:

LV stated that she gave the Tenant a “notice of viewing” and “cleaning instructions”, but that the Tenant never called her to make a date for an inspection.

Analysis

This is the Landlord’s claim for damage or loss under the Act and therefore the Landlord has the burden of proof to establish its claim on the civil standard, the balance of probabilities.

To prove a loss and have the Tenant pay for the loss requires the Landlord to satisfy four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Tenant in violation of the Act,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The invoice provided by the Tenant indicates that the Tenant stayed at a motel in Valemount, arriving October 31, 2014, and leaving on November 1, 2014. The Landlord’s agent stated at the beginning of the Hearing that the Tenant was present at the move out condition inspection, but refused to sign the Condition Inspection Report. Later in the Hearing, the Landlord’s agent stated that the Tenant did not call her to “make a date” for the inspection. I find that the Landlord’s evidence is inconsistent, and that the Tenant’s evidence is clear. The Landlord’s application for loss of revenue for November 1 and 2, 2014, is dismissed.

It is a landlord’s responsibility to arrange for condition inspections at the beginning and at the end of a tenancy in accordance with the provisions of the Act and the regulation. If a tenant does not agree to a date and time for the inspection, the landlord must issue a Notice of Final Inspection Opportunity. In this case, I find that the Landlord did not comply with the provisions of the Act and regulation with respect to scheduling a move out inspection.

With the exception of the abandoned furniture, the Tenant denies the Landlord's claim. I find that the Landlord submitted insufficient evidence to prove its claim and therefore its claim with respect to the broken windows, cleaning, and carpet cleaning, is dismissed.

I award the Landlord the cost of furniture removal in the amount of **\$153.40**.

The Landlord has been only partially successful in its claim and therefore, I allow partial recovery of the filing fee in the amount of **\$10.00**.

Conclusion

The Landlord has been provided with a monetary award in the amount of **\$163.40**, which may be deducted from the Tenant's security deposit.

The balance of the security deposit, plus accrued interest, must be returned to the Tenant. I hereby provide the Tenant with a Monetary Order in the amount of **\$509.62** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced 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: July 21, 2015

Residential Tenancy Branch

