



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Clima Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC, MNSD, O, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; to keep all or part of the security deposit; for "other"; and to recover the fee for filing this Application for Dispute Resolution.

The female Agent for the Landlord stated that on December 13, 2014 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted to the Residential Tenancy Branch on December 12, were sent to the Tenant, via registered mail, at the service address noted on the Application. The female Agent for the Landlord cited a Canada Post tracking number that corroborates this statement. She stated that the Tenant provided the service address to the Landlord, via email, on December 11, 2014.

In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing. The documents submitted by the Landlord were accepted as evidence.

Issue(s) to be Decided

Is the Landlord entitled to compensation for loss of revenue and damage to the rental unit?

Is the Landlord entitled to retain all or part of the security deposit?

Background and Evidence

The female Agent for the Landlord stated that:

- this tenancy began on October 01, 2014;
- the Tenant signed a fixed term tenancy agreement, the fixed term of which ended on September 30, 2015;
- the Tenant agreed to pay rent of \$1,400.00 by the first day of each month;

- the Tenant paid a security deposit of \$700.00;
- the Landlord served the Tenant with a One Month Notice to End Tenancy because the Tenant had sublet the rental unit without permission from the Landlord;
- the Landlord was granted an Order of Possession for the rental unit that was effective on November 30, 2014; and
- the Tenant vacated the rental unit on November 30, 2014.

The Landlord is seeking compensation, in the amount of \$700.00, because the Tenant breached the tenancy agreement by subletting it without written permission from the Landlord, which resulted in the Landlord ending the tenancy prior to the end of the fixed term of the tenancy agreement. The female Landlord stated that the rental unit was advertised on two popular websites on November 30, 2014 and that a new tenant moved into the unit on January 15, 2015. The Landlord is only seeking \$700.00 in compensation for lost revenue, although the Landlord experienced a significantly greater loss.

The Landlord is seeking compensation, in the amount of \$125.00, for cleaning the rental unit. The female Agent for the Landlord stated that the refrigerator, the stove, and the floor all required cleaning at the end of the tenancy. The Landlord submitted photographs that corroborate this testimony and an invoice to show this expense was incurred.

The Landlord is seeking compensation for the cost of sending an Order of Possession and “move out instructions” to the Tenant, via registered mail.

Analysis

Section 34(1) of the *Act* prohibits a tenant from subletting or assigning a rental unit without the written consent of the landlord. On the basis of the undisputed evidence, I find that the Tenant breached section 34(1) of the *Act* and that the Landlord ended the tenancy as a result of that breach. As the Tenant’s actions directly contributed to the tenancy ending prior to the end of the fixed term of the tenancy, I find that the Landlord must compensate the Landlord for any losses experienced as a result of the premature end to the tenancy.

On the basis of the undisputed testimony, I find that the Landlord experienced lost revenue for the month of December in an amount that exceeds \$700.00. I therefore find that the Landlord is entitled to the full amount of the claim for lost revenue, in the amount of \$700.00.

On the basis of the undisputed evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit in reasonably clean condition. I therefore find that the Landlord is entitled to compensation for the cost of cleaning, which in these circumstances was \$125.00.

I find that the Landlord was not obligated to serve the Tenant with an Order of Possession or “move-out instructions” to the Tenant via registered mail. As there were less expensive methods of serving these documents to the Tenant, I find that the Tenant is not obligated to pay these business costs. I therefore dismiss the Landlord’s claim for mailing costs.

I find that the Landlord’s Application for Dispute Resolution has merit and that the Landlord is entitled to recover fee for filing this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$875.00, which is comprised of \$700.00 in lost revenue, \$125.00 in cleaning costs, and \$50.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant’s security deposit of \$700.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$175.00. 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.

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 16, 2015

Residential Tenancy Branch

