



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord submitted documentary evidence to confirm the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on February 4, 2015 in accordance with Section 89. The landlord also provided tracking information to confirm the registered mail was successfully delivered on February 10, 2015.

Based on the documentary evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord's agent submitted that she and the tenant had reached a settlement on these matters, however the tenant had not yet returned a signed agreement. The landlord stated they had agreed the tenant would pay the landlord the equivalent of ½ month's rent - \$335.00. She also stated the tenant had paid \$25.00 of this and as such the landlord was willing to reduce her claim amount to \$310.00.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for compensation for damage and cleaning of the rental unit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 45, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by both parties on January 1, 2012 for a month to month tenancy beginning on January 13, 2012 for a monthly rent that is based on income due on the 1st of each month;
- A copy of the landlord's Declaration of Income and Assets document that was used to calculate the tenant's monthly rent to be \$670.00 effective February 1, 2014;
- A copy of an email from the tenant dated May 5, 2014 advising the landlord that it was her written notice to end the tenancy. She states that she moved out of the rental unit on May 1, 2014;
- A copy of a move in Condition Inspection Report dated January 12, 2012 and signed by the tenant and the landlord's agent recording the condition of the rental unit at the start of the tenancy;
- A copy of a move out Condition Inspection Report dated May 5, 2014 and signed by the tenant and the landlord's agent. Despite check boxes present the tenant does not indicate whether she agrees or disagrees with the report. However, there is a notation that reads:
 "Has need painting for a while – cannot move heavy appliance; too heavy as I am not medically allowed to life. Fridge drawer broken when moved in the previous tenant can verify left putty for holes filled one." [reproduced as written].
- A copy of an invoice for cleaning the rental unit in the amount of \$249.38;
- A copy of an invoice for drywall repairs and painting in the amount of \$4,481.40; and
- Several photographs taken at the end of the tenancy.

The landlord's original claim was for the following compensation:

Description	Amount
Rent – May 2014	\$670.00
Cleaning	\$249.38
Drywall repairs and painting	\$525.00
Total	\$1,444.38

The landlord has amended the amount of their claim to \$310.00, as noted above.

Analysis

Section 45(1) stipulates that a tenant may end a month to month tenancy by giving the landlord notice to end the tenancy on a date is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Section 45(3) states that if the landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after

the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

A material term of a tenancy agreement is a term that is agreed by both parties is so important that the most trivial breach of that term gives the other party the right to end the tenancy, such as the payment of rent.

There is no evidence before me that the tenant had provided a written notification to the landlord of a breach of a material term of the tenancy agreement or of her intent to vacate the property prior to the email dated May 5, 2014 informing the landlord that she had moved out May 1, 2014.

As such, I find that the tenant provided the landlord with notice of her intention to end the tenancy on May 5, 2014. As a result, I find the earliest the tenancy could have ended to be compliant with Section 45 was June 30, 2014. I, therefore, find the landlord would have been entitled to the equivalent of two months' rent for May and June 2014, in the amount of \$1,340.00, subject to the landlord's obligation to mitigate losses.

As the landlord seeks only \$310.00 in their claim, I find the landlord has established at least this amount unpaid rent. I therefore make no findings of fact or law related to the landlord's claim for damage to the rental unit.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$310.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 13, 2015

