



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This was a hearing with respect to the landlord's application for a monetary order and an order to retain the security deposit and pet deposit. The hearing was conducted by conference call. The landlord's father attended as agent for the landlord and the tenant called in and participated in the hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award and if so, in what amount?
Is the landlord entitled to retain all or part of the deposits?

Background and Evidence

The rental unit is a townhouse in Port Moody. The tenancy began in September, 2012. The tenant paid a security deposit of \$625.00 and a pet deposit of \$300.00 at the start of the tenancy. The monthly rent was \$1,250.00. The landlord obtained an order for possession and a monetary order for unpaid rent for October pursuant to a direct request proceeding. The tenant moved out of the rental unit on or about November 3rd, 2014. The landlord's agent testified that the rental unit needed to be cleaned and it was unable to be re-rented for any part of November. The unit was re-rented effective December 1, 2014. The landlord has claimed unpaid rent for August and November, 2014. The landlord also claimed that the tenant moved without providing a forwarding address and claimed for the costs charged by a locating service to discover the tenant's whereabouts.

The tenant submitted documentary evidence, including copies of medical records concerning her treatment for an asthma condition. The tenant attributed her breathing problems to the presence of mould in the rental unit. She claimed that she has suffered from allergy symptoms that began soon after she moved into the rental unit. The tenant

disputed the landlord's submissions that there was no mould problem in the rental unit. The tenant said that the fact that she developed symptoms when she was at the rental unit and was "perfectly fine otherwise" showed that her symptoms were caused by mould in the rental unit.

The tenant submitted that the rental unit was unsuitable for occupation and she was forced to moved due to health reasons and therefore should not be liable to the landlord for unpaid rent or for loss of rental income.

Analysis

I find that the tenant's medical documents do not establish that there was a mould problem in the rental unit that justified the tenant ending the tenancy without proper notice and without paying rent. The tenant submitted clinical hospital records. The records documented that the tenant suffers from a chronic asthma condition. It was reported in May, 2014 that the tenant's difficult to control chronic asthma over the past year was likely attributed to financial difficulties limiting her regular use of asthma inhaler medications and environmental exposure to known triggers.

A later report, prepared after the tenancy ended referred to anecdotal information received from the tenant linking her asthma symptoms to mould as a suspected trigger for her symptoms. The report does not constitute a finding that mould is causative of the tenant's asthma and the tenant has not supplied convincing evidence to establish that there was any significant issues with mould in the rental unit. The tenant said that some mould was found around a window by workers who were replacing windows in the unit. I do not find that there is convincing evidence of any significant mould problem in the rental unit

I find that the tenant has not established that she has a valid ground for withholding the rent payments; I find that landlord is entitled to recover the unpaid rent for August and November in the total amount of \$2,500.00. The landlord is not entitled to recover the cost incurred to locate the tenant's current whereabouts and the claim for recovery of a process server's tracing charge is denied. The landlord is entitled to recover the \$50.00 filing fee for this application, for a total award of \$2,550.00.

Conclusion

The landlord has been awarded the sum of \$2,550.00. I order that the landlord retain the security deposit and pet deposit in the total amount of \$925.00 in partial satisfaction of this award and I grant the landlord an order under section 67 for the balance of

\$1,625.00. This order may be registered in the 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: October 26, 2015

Residential Tenancy Branch

