



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants' security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

During the hearing the landlord withdrew their application for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulations or tenancy agreement.

The tenants along with an advocate and the landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent or utilities?
- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord permitted to keep all or part of the security and pet deposit?

Background and Evidence

The parties agreed that this tenancy started on March 16, 2015 for a fixed term tenancy that was not due to end until November 01, 2015. Rent for this unit was \$600.00 per month due on the 1st of each month plus a third of the utilities. The tenants paid a security deposit of \$150.00 and a pet deposit of \$150.00 at the start of the tenancy.

The landlord testified that the tenants gave late notice to end the tenancy. This notice was sent by text message on June 13, 2015 and the tenants informed the landlord that they would end the tenancy on June 30, 2015. The tenants vacated the unit on June 27, 2015. The tenants did agree to pay half a month's rent for July, 2015 but failed to pay anything for July. The landlord testified that prior to this she had notified the tenants that she was going to put the house on the market to be sold as an investment property and the tenants would continue to live there. The tenants were angry at this and moved out early. The landlord testified that the house was later sold but as the buyer expected the tenancy to continue the landlord had to pay the buyer back \$300.00 towards July's rent. The landlord testified that as the unit was empty the new owners decided to renovate the unit. The landlord seeks to recover the rent for July of \$600.00 as the tenants' unit was not re-rented by the new owners of the property.

The landlord testified that at the end of the tenancy she tried to get hold of the tenants to come and do a walk through inspection of the unit. The tenants did not attend the inspection. At the inspection the landlord found the tenant's dog had chewed the baseboards, there were holes in the wall that had been poorly patched and the unit was left unclean.

The landlord testified that she obtained quotes to repair the baseboards and holes but as the property has been sold the work has not been done by the landlord and the landlord has not suffered any loss. The landlord no longer seeks to recover costs for the damages from the tenants. The landlord did however have to engage the services of a cleaner and the cleaner had to clean the kitchen, bathroom and floors; this work took 10 hours. The landlord has provided a copy of the receipt for this work in evidence and seeks to recover \$300.00 for the cleaning.

The landlord seeks an Order to keep the security and pet deposit in partial satisfaction of this claim and seeks to recover the filing fee of \$50.00.

The tenants' advocate stated that the tenants dispute the landlord's claim for unpaid rent and stated the tenants agreed that they did not pay rent for July but said that the landlord did not agree they could move out at the end of June and pay half a month's rent for July. The tenants offered to stay in the unit until mid-July but the landlord wanted rent for the entire month. The tenants were trying to make an agreement with the landlord. The tenants testified that they called the Residential Tenancy Branch and were given misinformation. The tenants testified that they are willing to pay \$300.00 to the landlord.

The tenants' advocate stated that the tenants dispute the landlord's claim for cleaning. The tenants agreed they did not clean the unit at the end of the tenancy. The tenants' advocate testified that the tenants were having issues with the upstairs tenants and no longer felt comfortable being at the unit or coming back to clean. The tenants' advocate testified that the tenants did not give the landlord written permission to keep the security or pet deposit but have also not contacted the landlord to recover it either.

At the hearing the tenants agreed the landlord may keep the security and pet deposit of \$300.00.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the parties to s. 45 (2) of the *Act* which provides for the tenants notice to end tenancy when it is a fixed term tenancy. It states:

(2) that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find the tenants ended the tenancy before the end of the fixed term of November 01, 2015. Therefore, the tenants are responsible for any rent up to the legal end of the tenancy or up to any date prior to that that the unit is re-rented. In this case the unit was sold as a rental property and the landlord had to reimburse the new owners \$300.00 for half the rent due from the tenants for July. The new owners then renovated the unit instead of re-renting it. The landlord has claimed \$600.00 in rent for July; however, as the landlord has only suffered a loss of \$300.00, I find the landlord's claim for \$600.00 is extreme. It is therefore my decision that the landlord is entitled to recover rent for July of **\$300.00**.

With regard to the landlord's claim for cleaning, the tenants agreed they did not clean the unit at the end of the tenancy. Under s. 32 (2) of the Act a tenant is required to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. This means the tenant must maintain cleanliness and sanitary standards during the tenancy and leave the rental unit reasonably clean at the end of the tenancy. I am satisfied from the evidence before me that the tenants failed to leave the rental unit reasonably clean and as such I will allow the landlord's application to recover cleaning costs incurred of **\$300.00**.

The tenants agreed at the hearing that the landlord may keep the security and pet deposits of **\$300.00** I have therefore deducted this amount from the landlord's monetary award.

As the landlord's claim has merit I find the landlord is entitled to recover the filing fee of **\$50.00** pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord pursuant to s. 67 and 72(1) of the *Act* for the following amount:

Loss of rent for July	\$300.00
Cleaning costs	\$300.00
Filing fee	\$50.00
Less security and pet deposit	(-\$300.00)
Total amount due to the landlord	\$350.00

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$350.00**. The Order must be served on the respondents. Should the respondents fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: December 21, 2015

Residential Tenancy Branch

