



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlords for a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security and pet deposits and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on September 16, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Are there damages to the unit and if so how much?
4. Is the Landlord entitled to compensation for the damage and if so how much?
5. Are there other losses or damages and is the Landlord entitled to compensation?
6. Is the Landlord entitled to keep the Tenants' security and pet deposits?

Background and Evidence

This tenancy started on December 10, 2013 as a fixed term tenancy for 6 months and then renewed as a fixed term tenancy with an expiry date of May, 2016. Rent was \$1,500.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$650.00 and a pet deposit of \$650.00 both on December 10, 2013. A move in condition inspection report was completed on December 10, 2013 and a

move out condition inspection report was completed by only the Landlords on June 1, 2015 after two written Notices to do the inspection were given to the Tenants. The Landlord said the Tenants gave notice on May 5, 2015 that they were moving out on May 31, 2015. The tenancy ended on May 30, 2015.

The Landlord said that the Tenants did not pay rent of \$1,500.00 and a late rent fee of \$25.00 for May, 2015 so the Landlord issues a 10 Day Notice to End Tenancy for Unpaid rent. The Landlord continued to say the Tenants did not pay the May, 2015 rent or the rent for June, 2015 of \$1,500.00. The Landlord said the Tenants owe the June, 2015 rent as well because the tenancy agreement is a fixed term agreement until May, 2016. As well the Landlord said they wanted to rent the unit as quickly as possible so they dropped the rental amount from \$1,500.00 to \$1,400.00 and they rented the unit on July 1, 2015. The Landlord said they are also requesting the short fall of \$100.00 per month for 11 months from July, 2015 to May, 2016 because that is the expiry date of the fixed term tenancy agreement in the amount of \$1,100.00. The Landlord said they are requesting a total of \$4,125.00 in unpaid rent.

Further the Landlord said the Tenants left the rental unit in poor condition and the Tenants did not participate in the move out condition inspection report even though the Tenants had agreed to it. The Landlord said they are claiming their labour costs at \$90.00 for exterior cleaning and \$220.00 for interior cleaning. The Landlord said a break down is in the evidence package and they charged \$20.00 per hour for their labour.

In addition the Landlord said the basement carpet was full of urine and they tried to clean it themselves and professionally. The Landlord said they hired a cleaning service at \$69.38 and a professional carpet cleaner at \$173.50 and they rented a carpet cleaner themselves for \$66.42. The Landlord said the urine smell could not be removed from the carpet so they had to replace the carpet at a cost of \$2,740.05. The Landlord said the existing carpet was put into the unit new in September, 2008.

As well the Landlord said The Tenants returned the keys but they changed the locks for security reasons. The Landlord said they are requesting \$141.49 as the cost to replace the locks on the rental unit.

The Landlord said their total claim is \$7,625.84 plus the filing fee of \$100.00. The Landlord continued to say they have included paid receipts for all their claims in the evidence package.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 45 of the Act says a Tenant may end a fixed term tenancy **not earlier than the date specified in the tenancy agreement** and it must be with written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the rent of \$1,500.00 and the late fee of \$25.00 for May, 2015. As well I find the Tenants are responsible for the June, 2015 rent of \$1,500.00 as the Landlords had to clean the unit and did not have time to get new tenants until July, 2015. Further as the tenancy agreement is a contract between the parties I find the Landlord has established grounds to be awarded the short fall of \$100.00 per month resulting from a rent reduction to rent the unit quickly; therefore I also award the Landlords \$1,100.00 of rent short fall from July, 2015 to May, 2016.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has proven losses exist and she has verified the losses by providing paid receipts for the claims that the Landlords are making. I accept the Landlords' testimony and evidence that these damages and losses were caused by the Tenants and the costs were reasonable amounts to make repairs to the unit because of the urine stained carpet in the basement and that the Tenants did not clean the unit before leaving. Consequently, I find the Landlord has established grounds to be awarded cleaning costs of the Landlords' labour in the amount of \$310.00 and carpet cleaning costs of \$309.30.

Further the Landlord has requested the full cost of replacing the carpet in the amount of \$2,740.05, but the carpet was 6 and $\frac{3}{4}$ years old. Policy guideline #40 states that the economic life of a carpet is 10 years therefore the carpets remaining economic life was $3\frac{1}{4}$ years. I find the Landlords' have established grounds to be awarded $3.25/10 \times \$2,740.05 = \890.52 which is the remaining economic value in the basement carpet.

With respect to the Landlords' request for the cost to change the locks of \$141.49 this is the responsibility of all landlords at the end of a tenancy therefore I dismiss this claim without leave to reapply.

As the Landlords have been mostly successful in this matter, the Landlords are also entitled to recover from the Tenants the \$100.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security and pet deposits in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 4,100.00
	Late rent fees	\$ 25.00
	Cleaning and Labour	\$ 619.30
	Replacement carpet	\$ 890.52
	Recover filing fee	\$ 100.00
	Subtotal:	\$5,734.82
Less:	Security Deposit	\$ 650.00
	Pet Deposit	\$ 650.00
	Subtotal:	\$ 1,300.00
	Balance Owing	\$ 4,434.82

Conclusion

A Monetary Order in the amount of \$4,434.82 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: March 15, 2016

Residential Tenancy Branch

