



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNR, MNDC, MNSD, FF

Introduction

This hearing convened as a result of the Landlord's Application for Dispute Resolution filed May 18, 2016 wherein the Landlord requested an Order of Possession, a Monetary Order for unpaid rent and money owed under the tenancy agreement, authority to retain the security deposit and to recover the filing fee.

The Landlord was represented by F.L. who identified herself as agent for the Landlord. For the purposes of this Decision I will refer to her as "Landlord". Only the Tenant, G.S., appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

No issues with respect to service or delivery of documents or evidence were raised.

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.

Preliminary Matters

On June 7, 2016 the Tenant's application to cancel a 10 Day Notice was heard and dismissed by Arbitrator Senay. The Landlord was also granted an Order of Possession as a consequence of that hearing. The parties confirmed the Tenant had vacated the rental unit as of June 15, 2016. Accordingly, the Landlord's request for an Order of Possession in the within hearing was unnecessary as the tenancy has already ended.

Caution

The Tenant was cautioned several times during the hearing as he refused to conduct himself in a respectful manner. He yelled into the phone, used abusive language towards me and the Landlord's agent and at times refused to respond to simple questions. The Tenant was warned that if he continued to behave as he was that his line would be muted.

The Tenant accused me of already making my decision when I reference the June 7, 2016 decision of Arbitrator Senay. When I informed him that I was not the same arbitrator, he stated that we were "all the same, just different colours".

The Tenant continued to yell into the phone and use abusive language while the Landlord's agent attempted to give her evidence. As I was not able to hear the Landlord's agent, and after I warned him a third time, I muted his line.

When the Tenant was given the opportunity to respond to the Landlord's agent's testimony he at first refused to provide an affirmation, stating that the Arbitrators only "listen to lies". After some time he agreed to be affirmed and to participate in the hearing.

At the end of the Tenant's testimony and when I asked if he had any further response to the Landlord's claims, he again began yelling into the telephone and told me that all the arbitrators would "get cancer" for what they do.

When the Landlord's agent was afforded an opportunity to reply to the Tenant's submissions, the Tenant refused to stop yelling into the telephone. Again, after a warning, his line was muted.

At the conclusion of the Landlord's reply, I informed the parties that the hearing was concluding and that I would reserve my judgment. I also informed them that I would send my Decision in the mail. When I asked the Tenant for his mailing address he responded that he "didn't have a f**king mailing address".

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. What should happen with the Tenant's security deposit?

3. Is the Landlord entitled to recovery of the \$100.00 filing fee paid?

Background and Evidence

The Landlord's agent, F.L., testified on behalf of the Landlord. She stated that the tenancy began May 1, 2015. She also stated that at the time the tenancy began monthly rent was \$750.00 and was reduced to \$688.00 (\$62.00) on the basis that the Tenants signed up for a one year lease. This rent reduction/concession ended on May 1, 2016 such that rent was payable in the amount of \$750.00.

The Tenants also paid a security deposit in the amount of \$375.00.

On April 26, 2016 the Landlord issued a 1 Month Notice to End Tenancy for Cause (the "Notice").

The Landlord's agent testified that the tenancy ended on June 16, 2016.

At the hearing the Landlord sought the sum of \$1,600.00, representing the following:

May 2016 rent	\$750.00
May Late fee	\$25.00
May contents insurance as per Tenant's Insurance Lease Addendum	\$15.00
Parking for May 2016	\$10.00
June 2016 rent	\$750.00
June Late fee	\$25.00
June contents insurance as per Tenant's Insurance Lease Addendum	\$15.00
parking for June 2016	\$10.00
Filing fee	\$100.00
TOTAL	\$1,700.00

The Tenant, G.S., testified as well.

The Tenant disputed the Landlord's claim for parking. He testified that he did not sign a contract for parking and did not in fact use the parking. He further testified that he believed the Landlord was lying about his responsibility to pay for parking.

The Tenant testified that he also did not agree to insurance and that he “did not know what that was for”. The Tenant stated that he did not believe this to be valid insurance contract. He also stated that the Landlord did not give him a copy of the insurance contract with BFL C.I.S. Inc. which is the named insurance company on the “Tenant’s Insurance Lease Addendum”.

The Tenant claimed that he paid the rent on May 17, 2016 and June 1, 2016. He further stated that his bank did not give him a copy of his cheques and therefore he did not have any proof of this payment.

The Tenant then claimed that the Landlord’s agent went into his apartment and stole his medication and his tablet. The Tenant further stated that the Landlord changed the lock to his mailbox.

The Tenant stated that he does not owe anything to the Landlord that rather it is the Landlord who has to pay the Tenant money as they owed him his security deposit.

The Landlord’s agent replied to the Tenant’s submissions as follows. She stated that the Tenant’s claim that he paid the rent for May and June was false. She further stated that they have surveillance cameras at the building and there is no footage showing the Tenant paying his rent into the rent drop box as he claims.

The Landlord’s agent also confirmed that the Tenant used parking and agreed to pay for parking. She stated that he was paying the parking spot for his motorcycle parking spot from August 2015 to the end of the tenancy, and therefore paid for many months and did not dispute this amount.

The Landlord’s agent also stated that the Tenants received all the “papers” on his move in date and that the insurance charged was a legitimate expense and most importantly, one which was agreed to by the Tenant.

Analysis

In a hearing on June 7, 2016 Arbitrator Senay found as follows:

“On the basis of the signed tenancy agreement submitted in evidence, I find that the Tenant agreed to pay monthly rent of \$750.00 by the first day of each month.

On the basis of the signed Rental Incentive Agreement submitted in evidence, I find that the Landlord agreed to reduce the monthly rent by \$62.00 for the period between May 01, 2015 and May 30, 2016.

On the basis of the undisputed testimony and the letter dated March 17, 2016, I find that the Tenant was informed that his "rental incentive" expires on April 30, 2016 and that his rent would be \$750.00, effective May 01, 2016.

As the period of the "rental incentive" expired on April 30, 2016 I find that on May 01, 2016 the Tenant became obligated to pay the full amount of rent due in accordance with the tenancy agreement, which is \$750.00. The rent of \$750.00 was established at the start of the tenancy and does not, therefore, constitute a rent increase, even though the Tenant had not been required to pay that amount prior to May 01, 2016."

The Landlord confirmed the above during the present hearing and the Tenants failed to submit any evidence which would contradict the above findings. Accordingly, I find the Tenants were obligated to pay rent in the amount of \$750.00 per month for May and June 2016.

The tenancy agreement provided at clause 7 that the Tenants would be required to pay a \$25.00 late fee. The tenancy agreement also provided that the Tenants would pay the sum of \$15.00 per month for insurance. The Tenants agreed to these sums when they signed the tenancy agreement on April 24, 2015 and accordingly I find the Landlord is entitled to payment of these amounts for May and June 2016.

I accept the Landlord's evidence that the Tenant G.S. agreed to pay \$10.00 per month for parking of his motorcycle. I am also persuaded by the "Resident Ledger Summary Report" introduced in evidence by the Landlord which confirmed the Tenant paid for parking as of August 2015. Accordingly, I find that the Landlord is entitled to the amounts claimed for parking in May and June of 2016.

As the Landlord has been substantially successful I also grant them recovery of the \$100.00 filing fee.

In total I find the Landlord has proven on a balance of probabilities that they are entitled to the amounts claimed as follows:

May 2016 rent	\$750.00
May Late fee	\$25.00
May contents insurance as per	\$15.00

Tenant's Insurance Lease Addendum	
Parking for May 2016	\$10.00
June 2016 rent	\$750.00
June Late fee	\$25.00
June contents insurance as per Tenant's Insurance Lease Addendum	\$15.00
parking for June 2016	\$10.00
Filing fee	\$100.00
TOTAL AWARDED	\$1,700.00

Accordingly, I award the Landlord compensation in this amount and grant the Landlord the authority, pursuant to section 38, to retain the Tenants' security deposit in the amount of \$375.00 as partial payment of this amount.

The Landlord is granted a Monetary Order for the balance due in the amount of **\$1,325.00**. This Order must be served on the Tenants and may be filed and enforced in the B.C. Provincial Court (Small Claims Division) as an Order of that Court.

Conclusion

The Landlord is entitled to compensation in the amount of \$1,700.00, may retain the Tenants' security deposit in the amount of \$375.00 and is granted a Monetary Order for the balance due in the amount of **\$1,325.00**.

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 20, 2016

Residential Tenancy Branch