



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STRATTON VENTURES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC

Introduction and Preliminary Matter

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord requested monetary compensation for unpaid rent and damage to the rental unit, authority to retain the security deposit and to recover the filing fee.

The Landlord, and the Tenant, N.W., appeared at the hearing and were given a full opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

At the outset of the hearing, the Tenant, N.W., confirmed his legal name. Pursuant to section 64(3)(c) of the *Residential Tenancy Act*, I amend the Landlord's Application for Dispute Resolution to include the Tenant, N.W.'s legal name.

The Tenant, B.S., was not in attendance.

D.H. testified that he served both Tenants individually by registered mail. He further stated that the Tenant, B.S. was served with the Notice of Hearing and their Application on June 13, 2016 by registered mail; a copy of the receipt and tracking number was provided in evidence and is also recorded on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline, "12. Service Provisions" provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Under the *Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of June 18, 2016 and therefore I proceeded with this hearing in his absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. What should happen with the Tenants' security deposit?
3. Should the Landlord recover the filing fee?

Background and Evidence

The residential tenancy agreement was provided in evidence and indicated this tenancy began on January 1, 2016. Monthly rent was payable in the amount of \$850.00 per month on the first of the month. The Tenants also paid a security deposit in the amount of \$425.00.

D.H. confirmed that the Landlord sought compensation for the following:

Unpaid rent for May 2016	\$550.00
Unpaid rent for June 2016	\$850.00
Cost to repair fire door	\$821.69
Cleaning and repairs to rental unit	\$175.00
Filing fee	\$100.00
TOTAL	\$2,496.69

Introduced in evidence was a copy of a 10 Day Notice issued on May 5, 2016 indicating the amount of \$550.00 owing as of May 1, 2016. The effective date of the Notice was May 15, 2016. D.H. testified that the Notice was posted to the rental unit door on May 5, 2016. Section 90 of the *Residential Tenancy Act* provides that documents served in this way are deemed served three days later such that the Tenants are deemed served on May 8, 2016. Accordingly, pursuant to section 53 the effective date of the Notice automatically corrects to May 18, 2016.

D.H. testified that the Tenants vacated the rental unit before the end of May 2016; he was not able to be more specific as he stated the Tenants did not give any notice of their intention to move.

D.H. confirmed that the rental unit has not been re-rented. He further confirmed that this is not due to the condition of the rental unit, but rather the rental market in which the rental unit is located.

D.H. further confirmed that the Tenant, N.W. paid \$200.00 towards his share of the outstanding rent the day before the hearing, November 30, 2016.

The Move out Condition Inspection Report indicates the move out date as May 21, 2016. This document also indicates the rental unit was left dirty, with scuffs on the floors, lino lifting in the kitchen transition, and missing electrical covers.

D.H. confirmed that the rental unit was not cleaned at the end of the tenancy and as a result the Landlord hired in house cleaners to attend to cleaning. Included in the Landlord's evidence was an invoice for \$175.00 for this cleaning.

D.H. testified that the Tenants' female guest damaged the fire door. D.H. further testified that the Tenants admitted to the resident manager, S.S., that it was their guest who caused the damage. D.H. was not able to provide a specific date as to when the fire door was damaged. D.H. stated that the nature of the damage was such that the door was repaired.

P.L. provided submissions on behalf of the Tenant N.W. He confirmed that the Landlord, and N.W., reached a comprehensive settlement as follows:

- Of the \$550.00 owing for the May rent, \$125.00 is to be paid by N.W., and \$425.00 is to be paid for by B.S.
- The Tenants are not responsible for paying the June rent.
- The Tenants take responsibility for the broken fire door and are to be equally responsible for the \$821.69 repair cost such that each are responsible for paying \$410.85.

- The security deposit in the amount of \$425.00 was paid solely by N.W. such that those funds are to his credit.
- The Tenants are equally responsible for the cleaning costs of \$175.00, such that each Tenant is responsible for paying \$87.50.
- The result of the foregoing is that N.W. is responsible for the sum of \$623.35. As the \$425.00 security deposit is to his credit such, \$198.35 is owing by N.W. N.W. paid \$200.00 on November 30, 2016, such that he no longer owes any amount to the Landlord.
- The balance of \$923.35 is owed by B.S. to the Landlord.

D.H. confirmed that the above was satisfactory to the Landlord.

Analysis

After careful consideration of the evidence before me, the testimony of the parties present and on a balance of probabilities, I find as follows.

I find that the Landlord suffered a loss of rent for May 2016, as well as the cost to clean the rental unit and repair the fire door. I accept the Tenant N.W.'s testimony that the Tenants accept responsibility for the cost to repair the fire door and clean the rental unit. I further accept his testimony that the Tenants accept responsibility for payment of the \$550.00 owing for May 2016 rent remained outstanding, in unequal shares.

The Landlord's representative confirmed that they agreed to forego compensation for the June 2016 rent and the filing fee.

I also accept N.W.'s undisputed testimony that he paid the security deposit and therefore these funds are credited towards any amount he owes the Landlord.

I am further satisfied that the Tenant, N.W. and the Landlord reached a comprehensive settlement regarding the Landlord's claim, the result of which is that the sum of \$923.35 remains owing to the Landlord and is payable by the Tenant B.S.

The Tenant, B.S., although duly served, failed to attend the hearing to dispute the testimony of N.W. and the Landlord's agent.

Pursuant to sections 7, 63 and 67 of the *Residential Tenancy Act*, I grant the Landlord a Monetary Order, in the amount of **\$923.35** payable to the Landlord by the Tenant, B.S. The Landlord must serve this Monetary Order on B.S. and may file and enforce it in the B.C. Provincial Court (Small Claims Division) as an Order of that Court.

Conclusion

The Landlord is granted a Monetary Order in the amount of \$923.35 payable by the Tenant, B.S. for his share of the unpaid rent for May 2016, the cleaning costs incurred by the Landlord and the cost to repair the fire door damaged by the Tenants' guest.

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 02, 2016

Residential Tenancy Branch