



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, a monetary Order for damage, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on March 06, 2017 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant, via registered mail, at the service address noted on the Application. The Landlord cited a tracking number that corroborates this statement. The Landlord stated that he believes the Tenant is living at the service address because he helped her move some property to that address a few days before the end of the tenancy. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

On March 08, 2017 the Landlord submitted 23 pages of evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was mailed to the Tenant at the service address on March 08, 2017. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent/lost revenue, and to keep all or part of the security deposit?

Background and Evidence

The Landlord stated that:

- the tenancy began on August 01, 2016;
- the Tenant agreed to pay monthly rent of \$800.00 by the first day of each month;
- the Tenant paid a security deposit of \$400.00;
- the Landlord was awarded an Order of Possession at a previous dispute resolution proceeding;
- the Order of Possession was effective two days after it was served on the Tenant;
- the Landlord served the Order of Possession to the Tenant on February 01, 2017;
- the Landlord agreed that the Tenant could stay until February 15, 2017;
- the Tenant did not vacate until February 25, 2017;
- the Tenant only paid \$400.00 in rent for February;
- the Landlord did not advertise the rental unit after the Tenant vacated as he was selling the property and preferred to have it vacant; and
- the rental unit was sold in March, with a possession date of May 01, 2017.

The Landlord is seeking unpaid rent/lost revenue for February of 2017, in the amount of \$400.00, and lost revenue for March of 2017, in the amount of \$400.00.

The Landlord is seeking compensation for cleaning the rental unit. The Landlord submitted photographs which the Landlord stated were taken after the rental unit was vacated by the Tenant. The Landlord is seeking compensation for the six hours he spent cleaning the unit. He is seeking \$15.00 per hour for the 4.5 hours he spent cleaning the interior of the unit and \$20.00 per hour for the 1.5 hours he spent cleaning the exterior of the unit and disposing of garbage.

The Landlord is seeking compensation for repairing a hole in the drywall. The Landlord submitted a photograph of the hole. The Landlord is seeking compensation for the 1.5 hours he spent repairing the hole, at a rate of \$20.00 per hour.

The Landlord is seeking compensation for replacing light bulbs that were burned out at the end of the tenancy and a smoke detector that was missing. The Landlord submitted receipts for a smoke detector and light bulbs, in the amount of \$38.92. The Landlord is

seeking to recover the cost of these items plus compensation for the 1.5 hours he spent installing the items, at a rate of \$20.00 per hour.

The Landlord is seeking compensation for replacing window coverings in the living room. He stated that he installed the window coverings shortly after the tenancy started and they were damaged during the tenancy. The Landlord submitted a receipt for the window coverings, in the amount of \$51.29. The Landlord is seeking to recover the cost of the window coverings although he has not applied for compensation for time he spent installing them.

Analysis

On the basis of the undisputed evidence I find that the Landlord served the Tenant with an Order of Possession on February 01, 2017, which required her to vacate the unit by February 03, 2017, and that the Landlord subsequently agreed that the Tenant could remain in the unit until February 15, 2017.

On the basis of the undisputed evidence I find that the Tenant did not vacate the rental unit until February 25, 2017. I therefore find that the Tenant must pay rent, on a per diem basis for all the days in February that she occupied the rental unit. The per diem rate in February was \$28.57 per day and I therefore find that she must pay \$714.25 in rent for February. As the Tenant has already paid \$400.00 in rent for February, I find that she still owes \$314.25 in rent for that month.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 7(2) of the *Act* stipulates, in part, that a landlord who claims compensation for damage or loss that results from a tenant's non-compliance with the *Act*, the regulations, or their tenancy agreement, must do whatever is reasonable to minimize the damage or loss.

I find that the Landlord did not take reasonable steps to minimize the lost revenue he experienced in February and March of 2017. In reaching this conclusion I was heavily influenced by the Landlord's testimony that he did not advertise the rental unit as he preferred to leave it vacant. As the Landlord did not attempt to find a new tenant after the

Tenant vacated, he could have had no reasonable expectation that he would generate revenue between February 26, 2017 and March 31, 2017. I therefore dismiss the Landlord's application for lost revenue.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the time he spent cleaning the unit. I grant the Landlord's claim of \$15.00 per hour for the 4.5 hours he spent cleaning the interior of the unit and \$20.00 per hour for the 1.5 hours he spent cleaning the exterior of the unit and disposing of garbage, for a total of \$97.50. I specifically note that the Landlord claimed compensation at the hourly rates awarded.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the hole in the drywall. I therefore find that the Landlord is entitled to compensation for the time he spent repairing the drywall. I grant the Landlord's claim of \$30.00 for the 1.5 hours he spent repairing the drywall.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to replace the missing smoke detector and burned out lightbulbs. I therefore find that the Landlord is entitled to compensation for the time he spent installing the items, in the amount of \$30.00, and the cost of the items, in the amount of \$38.92.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to replace the window coverings in the living room that were damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for the cost of the coverings, in the amount of \$51.29.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$661.96, which includes \$314.25 in rent; \$97.50 for cleaning; \$30.00 for repairing drywall; \$68.92 for installing light bulbs and a smoke detector; \$51.29 for replacing window coverings; and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to

section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$400.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$261.96. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Act*.

Dated: July 30, 2017

Residential Tenancy Branch