



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB; OPC; OPM; MNDC; MNSD; FF; O

Introduction

This is the Landlord's Application for Dispute Resolution made August 8, 2017. On October 5, 2017, the Landlord amended his monetary claim. The Landlord seeks an Order of Possession, compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit towards his monetary award; "other" unspecified order(s); and to recover the cost of the filing fee from the Tenant.

Both parties attended the Hearing and gave affirmed testimony.

There were no issues identified with respect to service of documents.

At the outset of the Hearing, the Landlord advised that the Tenants moved out of the rental unit on August 29, 2017, and that new occupants moved in on September 26, 2017. Therefore, the Landlord does not require an Order of Possession and this part of his Application is dismissed.

Issue(s) to be Decided

Is the Landlord entitled to compensation for loss of revenue for the month of September, 2017, in the amount of \$3,870.00?

Background and Evidence

Both parties gave extensive oral testimony with respect to this tenancy. In this Decision, I have recorded the parties' relevant testimony only with respect to the Landlord's Application.

A copy of the tenancy agreement was provided in evidence. This tenancy began on August 31, 2016. This tenancy was a one year fixed term lease, ending August 31, 2017. Monthly rent was \$3,750.00, due in advance on the last day of each month. The Tenants paid a security deposit in the amount of \$1,875.00 and a fob deposit in the amount of \$200.00 at the beginning of the tenancy. On September 5, 2017, the Tenants signed off \$1,046.00 of the security deposit for cleaning and minor repairs. The Landlord is holding the balance of the security and fob deposit in the amount of \$1,029.00.

The Landlord testified that the Tenants did not allow him to show the rental unit to prospective tenants between August 9 and August 22, 2017, because the Tenants had guests and thought it would be too intrusive on their privacy. The Landlord testified that after August 5, 2017, there were no further showings until August 24, 2017. He stated that the Tenants also required one week's notice for any showings, which meant that a lot of prospective tenants decided to rent elsewhere.

The Landlord stated that he was able to re-rent the property effective October 1, 2017. He seeks compensation for loss of revenue for September, 2017, because the Tenants did not cooperate with showings. The Landlord testified that the new occupants entered into a tenancy agreement on September 12, 2017. The Landlord stated that the new tenants moved in on September 26, 2017, but did not pay pro-rated rent for September 26, 2017 to September 30, 2017. A copy of the agreement was provided in evidence.

The Tenant MO testified that the Landlord gave the Tenants blanket notice for blocks of time in one written notice. He stated that was advised by the Residential Tenancy Branch that if the number of times and dates on a written notice was unreasonable, the Tenant could deny access to the rental unit. The Tenant stated that there were no showings scheduled by the Landlord between August 8 and 15, 2017, but that the Landlord went back to having showings on August 15, 2017.

The Landlord disputed that there were no showings scheduled between August 8 and 15, 2017. He stated that there were showings scheduled, but that the Tenants refused to cooperate, so they were cancelled.

The Landlord provided copies of notices for showings and e-mails between the parties.

The Landlord provided the Tenants with a written notice dated July 24, 2017, that he required access to the rental unit for the purposes of "showing the premises to potential

tenants” on August 1 and Aug 3 from 5:30 to 6:30 p.m. and August 5 from 11:00 a.m. to 12:00 p.m.

The Tenants replied by e-mail that they have guests on August 1, 2017, and asked if the Landlord could reschedule the appointments. The Tenants suggested that the appointments be rescheduled for after August 9, 2017.

The Landlord provided the Tenants with a written notice dated August 1, 2017, that he required access to the rental unit for the purposes of “showing the premises to potential tenants” on August 8 and Aug 10 from 5:30 to 6:30 p.m. and August 12 from 11:00 a.m. to 12:00 p.m.

The Tenants replied by e-mail stating (in part), “The only way that I will cooperate for showing is that you send me those cheques as I request it in prevues e-mail” (referring to security deposit) and “THEREFORE YOU ARE NOT ALLOW TO ENTER THE PROPERTY AT ANY TIME. IF YOU DO SO I WILL CALL POLICE.”

The Landlord provided the Tenants with a written notice dated August 8, 2017, that he required access to the rental unit for the purposes of “showing the premises to potential tenants” on August 15 and Aug 17 from 5:30 to 6:30 p.m. and August 19 from 11:00 a.m. to 12:00 p.m.

On August 8, 2017, the Tenant replied by e-mail, stating (in part), “YOU ARE NOT ALLOW TO ENTER THE PROPERTY AT ANY TIME BEFORE MY TENANCY IS FINISH. IF YOU DO SO I WILL CALL POLICE.”

The Landlord provided the Tenants with a written notice dated August 14, 2017, that he required access to the rental unit for the purposes of “showing the premises to potential tenants” on August 22 and Aug 24 from 5:30 to 6:30 p.m. and August 26 from 11:00 a.m. to 12:00 p.m.

The Landlord provided the Tenants with a written notice dated August 22, 2017, that he required access to the rental unit for the purposes of “showing the premises to potential tenants” on August 28 and Aug 29 from 5:30 to 6:30 p.m. and August 30 from 11:00 a.m. to 12:00 p.m.

Analysis

Section 29 of the Act provides:

Landlord's right to enter rental unit restricted

- 29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:
- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
 - (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
 - (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
 - (d) the landlord has an order of the director authorizing the entry;
 - (e) the tenant has abandoned the rental unit;
 - (f) an emergency exists and the entry is necessary to protect life or property.
- (2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

[Reproduced as written.]

Based on the evidence provided, I find that the Landlord gave due 24 hour written notice to access the rental unit pursuant to the provisions of Section 29 of the Act. I find that the purpose for entering was reasonable.

I find that the Tenants had no right to bar access to the rental unit and that the Landlord suffered a loss as a result of the Tenants' failure to comply with the Act.

Further to the provisions of Section 67 of the Act, I find that the Landlord is entitled to compensation for loss of revenue in the amount of \$3,750.00, which is the amount of monthly rent that was payable under the Tenants' tenancy agreement.

Further to the provisions of Section 72 of the Act, the Landlord may apply the residual deposit in the amount of \$1,029.00 in partial satisfaction of his monetary award.

The Landlord has been successful in his Application and I find that he is entitled to recover the cost of the \$100.00 filing fee from the Tenants.

The Landlord is hereby provided with a Monetary Order, calculated as follows:

Loss of revenue	\$3,750.00
Recovery of filing fee	\$100.00
Less set off of deposit	<u><\$1,029.00></u>
TOTAL	\$2,821.00

Conclusion

The Landlord is hereby provided with a Monetary Order in the amount of **\$2,821.00** for service upon the Tenants. This Order may be filed in the Provincial Court 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 *Residential Tenancy Act*.

Dated: November 29, 2017

Residential Tenancy Branch