



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD (Tenant's Application)
 MNDCL-S, FFL (Landlord's Application)

Introduction and Preliminary Matters

This hearing convened as a result of cross applications.

In the Tenant's Application for Dispute Resolution, filed on February 8, 2018, amended on April 23, 2018, and further amended on August 10, 2018, the Tenant requested monetary compensation from the Landlord for moving costs, increased rental costs, transportation costs and the cost to develop photos.

In the Landlord's Application for Dispute Resolution, filed on February 8, 2018, the Landlord requested monetary compensation for the cost to clean the carpets and to recover the filing fee.

The hearing was conducted by teleconference at 1:30 a.m. on September 6, 2018.

Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

Preliminary Matter—Settlement of Landlord's Claim

At the outset of the hearing the Tenant confirmed she was agreeable to compensating the Landlord for the **\$105.00** claimed for cleaning the carpets. Pursuant to *Residential Tenancy Branch Rule 8.4* and section 63 of the *Act* I record the Tenant's agreement to pay this sum in my Decision.

Preliminary Matter—Tenant's Claim

In the Tenant's claim filed February 8, 2018 she indicated she wished to be compensated two month's for an alleged "illegal eviction". In her Amendment filed on April 23, 2018 she indicated she wished to remove her claim related to the alleged "illegal eviction". In her Amendment filed on August 10, 2018 she failed to indicate the amount sought on the Amendment form; however, she provided a Monetary Orders Worksheet wherein she claimed moving costs, compensation for increased rent, travel costs and photofinishing. At the hearing before me the Tenant stated that she wished to proceed with her claim for two month's compensation as she believed the Landlord did not use the rental unit for the purpose stated on the 2 Month Notice to End Tenancy.

One of the principles of Natural Justice is that a party to a dispute has the right to know the claim against them, the opportunity to review evidence filed by the claimant and the opportunity to respond to such claims. Although the original Application filed by the Tenant indicated she sought two month's compensation for an illegal eviction, her Amendment filed in April specifically removed this claim. The Tenant claimed at the hearing before me that an Agent, acting without instructions, filed the April 2018 Amendment. Further, the Amendment filed in August made no mention of such a claim. At the hearing before me the Tenant stated that her primary claim was for two month's compensation as she believes the Landlord did not use the rental unit for the stated purpose.

I find it would be prejudicial to the Landlord to allow the Tenant to proceed on an Application for compensation pursuant to section 51(2) of the *Act*. I also note that the Tenant (in her August 10, 2018 Amendment) made claims for items (such as photo finishing) which are not recoverable under the *Act*, and claims for some items which are generally not recoverable (moving costs and increased rent).

Pursuant to *Rule 4.7* of the *Residential Tenancy Branch Rules of Procedure* **I dismiss the Tenant's Claim with leave to reapply.**

The Tenant is cautioned to ensure any future Application includes all relevant claims, and that her evidence is relevant (*Rule 3.6*), organized, clear and legible (*Rule 3.7*) and submitted in a single package (*Rule 3.13*).

Conclusion

The Landlord is entitled to the sum of \$105.00 for carpet cleaning; this sum was agreed to by the Tenant.

The Tenant's claim is dismissed with leave to reapply.

As the Landlord has been substantially successful, she is entitled to recover the \$100.00 filing fee for a total award of \$205.00.

The Landlord is authorized to retain \$205.00 of the Tenant's \$525.00 security deposit and must return the balance of **\$320.00** to the Tenant.

The Tenant is granted a Monetary Order in the amount of **\$320.00**. Should the Landlord not pay as required the Tenant must serve the Monetary Order on the Landlord and may file and enforce it in the B.C. Provincial Court (Small Claims Division).

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: September 6, 2018

Residential Tenancy Branch