

Dispute Codes:

OPR

MNR

MNSD

FF

O

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This is the Landlord’s application for an Order of Possession; a Monetary Order for damage to the unit and unpaid rent; to keep the security deposit; and to recover the cost of the filing fee from the Tenants.

I reviewed the evidence provided prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

Preliminary Matter

At the onset of the Hearing, the Landlord advised that the Tenants vacated the rental unit on May 9, 2009. Therefore an Order of Possession is not required, and I dismiss this portion of the Landlord’s application without leave to reapply.

Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent and damages to the rental unit?
- Is the Landlord entitled to retain the security deposit paid by the Tenants?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenants?

Background and Evidence

Landlord's testimony and evidence

The rental unit is in the basement suite of a house. The Landlord lives in the upper floor of the house.

On May 2, 2009, the Landlord issued a 10 Day Notice to End Tenancy for unpaid rent and utilities, with an effective date of May 11, 2009. The Tenants vacated the rental unit on May 9, 2009. The Tenant CS provided the Landlord with her forwarding address on May 3, 2009. The other Tenants left without leaving a forwarding address.

On May 11, 2009, mail arrived at the rental unit for one of the Tenants from the Government of British Columbia. The Landlord returned the letter to the Post Office. On May 12, 2009, police attended at the Landlord's residence and advised the Landlord that the Tenant JS had complained that the Landlord was withholding the Tenant's mail. When the Landlord explained the situation, the police gave her the Tenant's new phone number and address. The Landlord started to forward any subsequent mail the address the police provided. Due to the fact that the Tenants had complained to the police that the Landlord was withholding mail, the Landlord forwarded subsequent mail by registered letter, which was costing her money. On May 25, 2009, the Landlord wrote to the Tenant JS and asked her to advise the post office of her forwarding address, and posted a note on the mail box that all correspondence for the Tenants JS and DL should be returned to sender.

The Landlord mailed the Notice of Hearing documents to the Tenant CS, via registered mail, to the forwarding address provided by Tenant CS. The Landlord provided copies of the registered mail receipts and tracking numbers.

The Landlord mailed the Notice of Hearing documents to the Tenants JS and DL, via registered mail, to the address provided by the police, on May 25, 2009. The Landlord provided copies of the registered mail receipts and tracking numbers.

Monthly rent was \$985.00. The Tenants paid a security deposit in the amount of \$490.00 on November 16, 2008. The Tenants did not pay any of the rent for the month of May, 2009.

The Tenants did not clean the rental unit, and left garbage and personal items throughout the suite. The carpets were very dirty. The Tenants damaged a door, which had to be replaced. The Tenants plugged the toilet with sanitary napkins and a spoon. The Tenants damaged walls, which required re-painting. The Landlord provided photographs of the damages along with copies of invoices for the cost of repairing and painting the walls, replacing the broken door, and fixing the plumbing. The Landlord asked to retain the security deposit in the amount of \$490.00 in partial satisfaction of the Landlord's monetary claim, and for a monetary order for the balance in the amount of \$1,035.18. The Landlord asked to recover the cost of the filing fee from the Tenants.

Analysis

I accept the Landlord's testimony and evidence with respect to service of the Notice of Hearing documents upon the Tenant CS. I also find that the Landlord has duly served the Tenant JS with the Notice of Hearing documents by sending them to the address the Tenant JS provided to the police.

There is no evidence to support the whereabouts of the Tenant DL. Furthermore, the tenancy agreement, a copy of which the Landlord provided into evidence, does not name the Tenant DL as a Tenant. Therefore, I dismiss the Landlord's claim against the Tenant DL without leave to re-apply.

With respect to the cost of filling, sanding and painting the walls, the Landlord testified that the walls were painted two years ago. The Residential Policy Guidelines determine that interior paint has a useful life of 4 years. Therefore, I find the Landlord is entitled to recover half of the cost of painting the walls. The Landlord, in her application, applied for less than half of the invoiced amount, and I allow this portion of her claim.

The Landlord applied to recover the cost of forwarding the Tenant JS's mail, in the amount of \$16.88. The Landlord chose to forward the mail, using registered mail. However, the Act does not require a landlord to forward a tenant's mail, and therefore I dismiss this portion of the Landlord's application.

The Landlord applied for compensation in the amount of \$100.00 for her labour in removing garbage from the rental unit and cleaning the suite, at the rate of \$15.00 per hour. The photographs provided by the Landlord support this claim.

Based on the undisputed evidence of the Landlord, I find that the Landlord has established a monetary claim for unpaid rent and damages against the Tenants JS and CS. Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of her claim.

The Landlord has been largely successful in her application and is entitled to recover the cost of the filing fee from the Tenants JS and CS.

The Landlord has established a monetary order, as follows:

Unpaid rent for the month of May, 2009	\$985.00
Cost of replacing the door	\$140.00
Plumbing costs for repairing the toilet	\$133.30
Cost of filling, sanding and painting the walls (reduced)	\$150.00
Compensation for garbage removal and cleaning	\$100.00
Filing fee	\$50.00
Subtotal	\$1,558.30
Less security deposit and accrued interest of \$.92	-\$490.92
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,067.38

Conclusion

The Landlord's application against the Tenant DL is dismissed without leave to re-apply.

The Landlord's application for an Order of Possession is dismissed without leave to re-apply.

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order against the Tenants JS and CS in the amount of \$1,067.38. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

Dated: August 31, 2009.
