



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC; OPB; MND; MNSD; MNDC; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for damages and loss of revenue, to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord GB gave affirmed testimony at the Hearing. The Tenants did not sign into the Hearing, which remained open for 40 minutes.

Preliminary Matters

At the outset of the Hearing, GB testified that the Tenants moved out of the rental unit on or about July 1 or July 2, 2013. Therefore, **the Landlords withdrew their application for an Order of Possession.**

GB testified that the Notice of Hearing documents were mailed to the female Tenant, by registered mail, to the rental unit on June 28, 2013. GB provided the tracking numbers for the registered documents. He stated that the parties were to meet for a Condition Inspection of the rental unit at 8:00 p.m. on June 31, 2013, but the rental unit was not ready for inspection. He attended at the rental unit on July 1, 2013, and saw the Canada Post Notice, which advises where to pick up the documents, on the kitchen counter in the rental unit. The Landlords provided photographs of the Canada Post Notice in evidence. Based on GB's affirmed testimony and the documentary evidence provided, I find that the female Tenant was duly served with the Notice of Hearing documents by registered mail.

GB testified that he did not serve the male Tenant with the Notice of Hearing documents. In this case only the female Tenant has been served with the Notice of Hearing documents. Tenants are jointly and severally responsible for damages during a tenancy. In other words, the Landlords may choose to seek a monetary award against one or both of the Tenants. GP indicated that the Landlords wished to proceed against the female Tenant LG only. It will be up to the Tenants to apportion any monetary

award between themselves. **The Landlords' claim against the male Tenant is dismissed without leave to reapply.**

GB stated that the Landlords finished cleaning and repairing the rental unit on June 24, 2013. He submitted that the rental unit was not in good enough condition to show it to prospective tenants until the Landlords had finished and that they had not re-rented the rental unit at the time of the Hearing. GP asked to amend the Application to include loss of revenue for the month of August, 2013. I explained to the Landlords that it is premature to allow a claim for loss of revenue for August, 2013, because a new tenancy agreement may be entered into and new tenants may be able to take possession of the rental before August 31, 2013. However, the Landlords remain at liberty to apply for loss of revenue for August, 2013, in the future.

Issues to be Decided

- Are the Landlords entitled to compensation for loss of revenue for the month of July, 2013, and a monetary order for the cost of repairing damages and cleaning the rental property at the end of the tenancy?

Background and Evidence

GB gave the following testimony:

A copy of the tenancy agreement was provided in evidence. The rental unit is a three bedroom manufactured home. This tenancy began on April 30, 2013. Monthly rent was \$1,350.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$675.00 on April 25, 2013, and were required to pay a pet damage deposit in the amount of \$675.00 by May 15, 2013. The Tenants had three cats and a rabbit, but did not pay the required pet damage deposit.

On June 2, 2013, the Landlords issued a 10 Day Notice to End Tenancy for Unpaid Rent that was due on June 1, 2013. The Tenants paid the arrears on June 7, 2013.

On June 2, 2024, the Landlords issued a One Month Notice to End Tenancy for non-payment of the pet damage deposit. The Tenants did not dispute this Notice.

GB stated that the male Tenant was away most of the time, working. The female Tenant lived in the rental unit with the male Tenant's adult son. GB testified that he had difficulty showing the rental unit to prospective new tenants because it was filthy, unkempt and smelled of cigarette smoke, pot smoke and animal waste. The addendum to the tenancy agreement includes a clause that smoking is not allowed inside the rental unit. The Landlords provided photographs in evidence.

The tenancy agreement required the Tenants to do yard maintenance, but GB testified that none was done for the term of the tenancy. The yard was full of weeds and very long grass and garbage was strewn about the yard. GB stated that the Tenants ripped the door off the garden shed.

GB testified that the Tenants did not clean the rental unit at the end of the tenancy. The Tenants broke a window in one of the bedrooms in rental unit. The Tenants left their animals alone in the rental unit for several days at the end of the tenancy, and there was animal waste, garbage and broken down furniture left at the rental unit. The Landlords allowed the female Tenant to return to the rental unit on July 2, 2013, to pick up her pets.

GB stated that the Landlords tried to get a cleaning company to clean the rental unit, but they refused to clean it until the animal waste was removed and suggested that the Landlords hire a restoration company. A restoration company was consulted and sent the Landlords an e-mail including an estimate of \$2,000.00 plus GST, and stated that they were very busy and could not meet the Landlords' deadline. A copy of the e-mail from the restoration company was provided in evidence.

The Landlords, concerned about the cost and loss of revenue, decided to do the clean-up themselves. GB stated that he took 2 days off work in order to do the clean-up. GB stated that his hourly wage is \$45.00, but the cost of him doing the work was much less than the amount of the restoration company's estimate. The Landlords provided a copy of GB's pay advice in evidence, indicating his hourly wage and that he took July 5 and 8 off. The Landlords rented two ozone machines over the period of two days to deodorize the smell of marijuana and cigarette smoke, feces and urine from the rental unit. The Landlords provided a copy of the invoice for the cost of renting the ozone machines in evidence.

GB stated that a cleaning company was prepared to take over the final cleaning, but could not come until July 29, 2013 at 9:15 a.m. and would cost a minimum of \$225.00. The Landlords were almost finished cleaning and therefore decided to complete the job themselves so that they could show the rental unit as soon as possible. GB stated that the Landlords finished cleaning the rental unit on June 24, 2013. The Landlords are not seeking compensation for their time spent doing the final clean-up.

The Landlords hired a yard maintenance crew who did yard cleanup and maintenance on July 5, 9, and 10, 2013. The Landlords provided a copy of their invoice in evidence.

The broken window was replaced and a copy of the invoice was provided in evidence.

The Landlords seek a monetary award, calculated as follows:

Loss of revenue for July, 2013	\$1,350.00
Yard maintenance invoice	\$367.50
Vacation days taken to clean and repair rental unit	\$734.40
Cleaning supplies (receipt provided)	\$23.35
Supplies for weed control (receipt provided)	\$21.27
Clean and sanitize carpet (receipt provided)	\$110.25
Dump fees (receipt provided)	\$10.20
Cost to replace window (receipt provided)	\$168.00
Rental fee for 2 ozone machines (receipt provided)	\$600.00
Cost to print photo evidence	<u>\$18.93</u>
TOTAL	\$3,403.90

Analysis

I accept that the Landlords' uncontested oral testimony and documentary evidence in its entirety.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulations or tenancy Agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. Section 67 of the Act provides me with authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 37 of the Act requires tenants to leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear, at the end of the tenancy. Based on the Landlords' evidence, I accept the Landlords' submission that the rental unit could not be shown to prospective tenants until it was cleaned and deodorized. I find that the Tenants did not comply with Section 37 of the Act and that the Landlords lost revenue for the month of July, 2013, because of the Tenants' breach of the Act. I allow this portion of the Landlords' claim in the amount of **\$1,350.00**.

The addendum to the tenancy agreement includes the following clause:

2) It is the responsibility of the tenants to maintain the yard, which includes: raking leaves, mowing the lawn, watering, pulling weeds, and pruning or trimming back bushes and trees."

I find that the Tenants breached this clause in the tenancy agreement and that the Landlords are entitled to their claim in the amount of **\$367.50** for yard maintenance.

The Tenants allowed their four pets to urinate and defecate freely inside the rental unit. The Tenants smoked marijuana and cigarettes in the rental unit, despite the clause in the tenancy agreement barring smoking. I accept the Landlords' evidence that the rental unit required special restoration because of the Tenants' breach of the Act and the tenancy agreement. I find that the Landlords attempted to mitigate their loss, and ultimately the Tenants' cost, by doing the restoration and clean-up themselves. I find that the GB suffered a loss as a result of the Tenants' breach of the Act and the tenancy agreement and that the Landlords are entitled to recover GB's demonstrated wages in the amount of **\$734.40**. I also allow the Landlords' claim for the cost of cleaning supplies, weed control, renting the ozone machines and dumping the Tenants' garbage, in the total amount of **\$654.80**.

I dismiss the Landlords' application for the cost of printing photographs. There is no provision in the Act for recovery of the cost of preparing for dispute resolution, other than for recovery of the filing fee. The Landlords have been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenants.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the award. No interest has accrued on the security deposit.

I hereby provide the Landlords with a Monetary Order, calculated as follows:

Loss of revenue for July, 2013	\$1,350.00
Cost of yard maintenance	\$367.50
Landlord GB's cost related to cleaning/restoring the rental unit	\$734.40
Materials for cleaning and weed control, dump fees and ozone machine rental	\$654.80
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$3,434.97
Less security deposit	- \$675.00
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$2,759.97

Conclusion

The Landlords are provided with a Monetary Order in the amount of **\$2,759.97** for service upon the Tenant LG. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: July 31, 2013

Residential Tenancy Branch