



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ENF HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNSD MNDC FF

Preliminary Issues

At the outset of this proceeding there were two participants who had dialed into this proceeding; the Landlord to this dispute and a female Tenant who was not named as a party to this dispute. After a brief discussion it was determined that the female had called into the hearing one day early and that her application was scheduled to be heard the following day October 17, 2014 at 9:00 a.m. I instructed the female to hang up and call back the next day.

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on June 13, 2014, to obtain a Monetary Order for: damage to the unit, site or property; to keep all or part of the security deposit; for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Landlord. The Landlord submitted that the Tenants were served with copies of the Landlord's application for dispute resolution and Notice of dispute resolution hearing, on June 14, 2014, in one package sent by registered mail. Canada Post receipts were provided in the Landlord's evidence and the Canada Post tracking website indicates the package was signed for by the Tenant G.M. on June 18, 2014.

Section 89(1) of the *Residential Tenancy Act* and Section 3.1 of the *Residential Tenancy Rules of Procedures* determines the method of service for documents. The Landlords have applied for a monetary Order which requires that the Landlords serve **each** respondent as set out under *Residential Tenancy Rules of Procedures*.

The Landlord confirmed that only one package was sent addressed to both Tenants and the evidence supports that G.M. was the Tenant who received the documents and was therefore properly served notice of this dispute. Therefore, I find that only one of the two Tenants has been properly served with the Application for Dispute Resolution and Notice of Dispute Resolution documents and the request for a Monetary Order against both Tenants must be amended to include only G.M. who has been properly served with Notice of this Proceeding. As the second Tenant, H.S.O. has not been properly served the Application for Dispute Resolution as required; the monetary claim against H.S.O. is dismissed without leave to reapply.

Based on the foregoing, I find the Tenant G.M. was sufficiently served notice of this proceeding, in accordance with section 89 of the Act; and I proceeded with the hearing, in the Tenant's absence.

Issue(s) to be Decided

Has the Landlord proven entitlement to a Monetary Order?

Background and Evidence

It was undisputed that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on April 30, 1999 and switched to a month to month tenancy after May 1, 2000. The Tenants were required to pay a subsidized rent which was \$980.00 during their last year of occupancy. A security deposit of \$500.00 was transferred to this tenancy from another tenancy in another unit.

The Landlord submitted evidence in support of their claim for \$1,431.88 which included copies of the following: tenancy agreement; photographs of unit taken on April 30, 2014; the Tenant's notice to end tenancy that was received April 7, 2014 and was effective April 30, 2014; a tenant ledger; and receipts for the completed repairs and cleaning.

The Landlord testified that their claim included \$980.00 for April 1, 2014 unpaid rent and noted that the Tenants remained in possession of the unit until April 30, 2014. The Landlord's evidence indicated that the Landlord had completed other repairs and renovation that were not claimed against the Tenants.

Analysis

Upon consideration of the evidence before me, in the absence of any evidence from the Tenant who did not appear, despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlord and corroborated by their documentary evidence.

Section 26 of the Act stipulates that a tenant must pay rent in accordance with the tenancy agreement; despite any disagreements the tenant may have with their landlord.

I accept the evidence that the Tenants failed to pay April 1, 2014 rent and they remained in possession of the unit until April 30, 2014. Accordingly, I award the Landlord unpaid rent for April 2014 in the amount of **\$980.00**.

Section 32 (3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Based on the aforementioned I find the Tenant has breached sections 32(3) and 37(2) of the Act, leaving the rental unit unclean and with some damage at the end of the tenancy.

As per the foregoing I find the Landlord has met the burden of proof and I award them damages in the amount of **\$451.88**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit plus interest as follows:

Unpaid April 2014 rent	\$ 980.00
Damages & repairs	451.88
Filing Fee	<u>50.00</u>
SUBTOTAL	\$1,481.88
LESS: Security Deposit \$500.00 + Interest 52.15	<u>-552.15</u>
Offset amount due to the Landlord	<u>\$929.73</u>

Conclusion

H.S.O. has not been properly served with the Application for Dispute Resolution as required; therefore, the monetary claim against H.S.O. is dismissed, without leave to reapply.

The Landlord has been awarded a Monetary Order against G.M. for **\$929.73**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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 *Residential Tenancy Act*.

Dated: October 16, 2014

Residential Tenancy Branch

