



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 758220 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order for the return of the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Tenant's evidence that the corporate Landlord was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. It is noted that this mail was picked up by the corporate Landlord. I accept that Landlord GC was served by registered mail to the address provided by Landlord GC at the previous hearing and it is noted that this mail was not collected. The Landlord did not attend the hearing. The Tenants were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Background and Evidence

The Parties signed a tenancy agreement with a start date of June 1, 2015. Rent of \$2,400.00 was payable on the first day of each month. Upon signing of the tenancy agreement the Landlord collected \$1,200.00 as a security deposit. No move-in inspection was conducted.

The unit was not habitable or ready for move-in on June 1, 2015 and the Tenants had to stay at the neighbours, who were friends. The Landlord agreed to have the unit cleaned and to replace the rugs and this was done within the first three days. As the walls were badly damaged and dirty the Parties agreed that the Tenants would paint the walls with paint supplied by the Landlord. The Tenants purchased the paint according to the

Landlord's directions. The Tenants had to wash the walls to prepare them for the paint and at this point discovered what they believed were bedbugs. The Landlord informed the Tenants that a person was sent to inspect the bugs and that this person told the Landlord there were no bedbugs. The Tenants sent photos of the bugs to a large pest control company who informed the Tenants that the photos definitely identified bedbugs. The Landlord then sent over an exterminator who told the Tenants that no bugs were present but that the unit would be treated anyway. At this point and due to an overwhelming smell of feces in one bathroom, the Tenants believed that the problems were too great and that the tenancy was not going to work. On June 6, 2015 the Tenants informed the Landlord that they were not going to continue the tenancy. The Landlord accepted this end of the tenancy and told the Tenants that another tenant was available to take up the tenancy. Another tenant was seen moving into the unit on June 15, 2015.

The Tenants provided its forwarding address to the Landlord GC on June 8, 2015. The Tenant claims return of double the security deposit.

The Tenant claims compensation for the cost of the paint supplies as agreed by the Landlord. The Tenants left the paint at the neighbours as the Landlord no longer communicated with the Tenants after June 6, 2015. The Tenants claim \$351.73 and provide a receipt.

The Tenants claim the rental costs of the moving truck for the period that the Tenants were not able to move into the unit. The Tenant claims \$506.88 and provides a receipt.

The Tenant withdraws its claim for tenant's insurance as it was able to transfer the insurance to their new residence. The Tenant in error did not check off recovery of the filing fee in their application however the Tenant claims recovery of this filing fee.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Based on the Tenant's undisputed evidence I find that the Tenants have substantiated that the Landlord failed to provide a habitable unit and that repairs continued for the first week of June 2016. As a result and considering the invoice I find that the Tenants are entitled to compensation for the cost of the moving truck in the amount of **\$506.88**. Based on the Tenant's undisputed evidence I find that the Landlord failed to keep the agreement to reimburse the Tenants for the cost of paint. Given the receipts I find that the Tenants are entitled to **\$351.73**.

Section 24 of the Act provides that the right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord does not make an offer for an inspection at move-in.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. As the Landlord's right to claim against the security deposit was extinguished and as the Landlord has not made any application for dispute resolution I find that the Tenants are entitled to return of double the security deposit in the amount of **\$2,400.00**.

As the Tenants indicated in its submissions that they were claiming recovery of the filing fee I find that an error in filling out the application does not restrict the Tenants' from this recovery. As such and as the Tenant's application has met with success I find that the Tenants are entitled to the **\$50.00** filing fee for a total entitlement of **\$3,308.61**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$3,308.61**. If necessary, this order may be filed in the 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: July 22, 2016

Residential Tenancy Branch

