Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the Landlord's Application for Dispute Resolution (the "Application") for a Monetary Order for damage to the rental unit, to keep the Tenant's security and pet damage deposits, and to recover the filing fee from the Tenant.

An agent for the Landlord and the resident caretaker of the rental unit building appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. However, there was no appearance for the Tenant during the 17 minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Landlord for this hearing.

The Landlord's agent testified that the Tenant was served a copy of the Application and the Hearing Package on February 1, 2017 by registered mail to the forwarding address provided by the Tenant at the start of the tenancy. The Landlord's agent provided the Canada Post tracking number into oral evidence which is noted on the front page of this Decision. The Canada Post website shows that the Tenant received and signed for the documents on February 3, 2017.

Based on the undisputed evidence before me, I find the Tenant was served with the documents for this hearing pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The hearing continued to hear the undisputed evidence as follows.

The Landlord had made a monetary claim for a total of $472.50. The Landlord's agent explained that they wanted to increase the claim amount to $722.50 to include other damages caused by the Tenant in the rental unit which they failed to amend the Application for. In addition, the Landlord had not provided any receipts for the additional amount requested. Therefore, as the Tenant had not been put on sufficient notice of the

increased claim through an amendment to the Application, I denied the Landlord's request. However, the Landlord is not barred from bringing a separate Application for additional damages not covered in this hearing.

Issue(s) to be Decided

- Is the Landlord entitled to damages to the rental unit?
- Is the Landlord entitled to keep the Tenant's security and pet damage deposits in full satisfaction of the monetary claim?

Background and Evidence

The Landlord's agent testified that this tenancy started on November 1, 2012 for a fixed term of one year which then continued on a month to month basis thereafter. A written tenancy agreement was signed and rent was payable in the amount of $945.00 on the first day of each month. The Tenant paid the Landlord a security deposit of $472.50 and a pet damage deposit of $200.00, both of which are herein referred to as the "Deposits". The total amount of the $672.50 Deposits is being retained by the Landlord in trust.

The Landlord's agent testified that a move-in Condition Inspection Report (the "CIR") was completed at the start of the tenancy. The Landlord's agent explained that the tenancy ended on July 31, 2016 which is when the parties met and a move-out CIR was completed by the Landlord. However, the Tenant refused to sign the move-out CIR as he did not agree with the damages that had been recorded by the Landlord's agent.

The resident caretaker testified that she discovered a letter which was left by the Tenant on the front window of the rental building on January 18, 2017. This letter contained the Tenant's forwarding address. The Landlord filed this Application on February 1, 2017.

The Landlord's agent testified that the Tenant failed to clean the rental unit at the end of the tenancy. In addition, the Tenant was required, pursuant to clause 5 and 11 of the additional terms to the tenancy agreement, to (a) clean the drapes at the end of the tenancy, and to (b) have flea treatment of the rental unit undertaken because the Tenant had pets.

The Landlord referred to the CIR as supporting evidence that the Tenant failed to undertake the above actions. The Landlord also provided three invoices into evidence to support the costs being claimed as follows: $125.00 for carpet cleaning: $141.75 for flea

treatment; and $110.00 for drape cleaning. The Landlord's agent confirmed that these were the three amounts being sought in this hearing.

Analysis

I am satisfied by the Landlord's undisputed evidence that the Tenant provided a forwarding address in writing to the Landlord on January 18, 2017 after the tenancy ended. Therefore, I find the that the Landlord filed the Application to keep the Tenant's Deposits within the 15 day time limit stipulated by Section 38(1) of the Act.

Section 37(2) of the Act requires a tenant to leave a rental unit reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a CIR to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary. Policy Guideline 1 on a landlord and tenant responsibilities states that a tenant is expected to clean the internal window coverings at the end of the tenancy regardless of the length of the tenancy.

The Tenant did not provide any evidence for this hearing. I have considered the undisputed evidence of the Landlord and find that I am satisfied that the Tenant failed to clean the rental unit and the drapes at the end of the tenancy as required by the Act and tenancy agreement. I also find the Tenant failed to undertake flea treatment of the rental unit which was a condition of the tenancy agreement signed and entered into by the Tenant. I am satisfied by the invoice evidence of the costs provided by the Landlord and grant the Landlord these costs for a total amount of **$376.75** ($125.00 + $141.75 + $110.00).

Pursuant to Section 72(1) of the Act, I also award the Landlord the **$100.00** filing fee for having to make this Application. Therefore, the total amount payable by the Tenant to the Landlord is **$476.75**. The Landlord is at liberty to re-apply for damages not dealt with in this hearing which also encompass the increased monetary claim which I denied.

Pursuant to Section 72(2) (b) of the Act, I allow the Landlord to obtain this relief by deducting this amount from the Tenant's Deposits. Therefore, the Landlord must return the remaining balance of **$195.75** ($672.50 – $476.75) back to the Tenant forthwith. The Tenant is issued with a Monetary Order for this amount which may be enforced through the Small Claims Division of the Provincial Court if the Landlord fails to make the return payment.

Conclusion

I order the Landlord to retain $476.75 from the Tenant's Deposits for damage to the rental unit. The remainder of the Landlord's Application is dismissed with leave to re-apply and the Landlord may also apply for damages not elected on this Application.

The Tenant is granted a Monetary Order for the return amount of $195.75 which must be returned by the Landlord forthwith.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 13, 2017

Residential Tenancy Branch