



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC MNR MNSD OPR FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

At the beginning of the hearing the Landlord advised that the Tenants had vacated the rental unit on December 01, 2008. As the rental unit is now vacant, I find that I do not need to consider the Landlord's application for an Order of Possession.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on November 13, 2008. She did not submit a tracking number for the mail or a copy of the Canada Post receipt. In the absence of evidence to the contrary, I accept that the Landlord sent these documents to the Tenants by registered mail. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenants did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to a monetary Order for loss of revenue for December of 2008; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord stated that this tenancy began on October 01, 2008; that the Tenants were required to pay monthly rent of \$1,500.00; and that they were required to pay a security deposit of \$750.00.

The Landlord stated that she served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent on November 02, 2008, which required the Tenants to vacate the rental unit on November 12, 2008. She stated that the Tenants did not vacate the rental unit on November 12, 2008, they did not dispute the Notice to End Tenancy, and they did not pay their outstanding rent.

The Landlord stated that the Tenants paid her \$1,000.00 in cash on October 17, 2008, \$750.00 of which was applied to the security deposit and \$250.00 of which was applied to rent for October. The Landlord stated that the Tenants paid her another \$1,200.00 in cash on October 22, 2008, which was applied to their rent for October, leaving an unpaid balance of \$50.00. The Landlord stated that she initially believed the Tenants had paid her \$1,300.00 on October 22, 2008 but that she realized later that they had only paid \$1,200.00.

The Landlord stated that the Tenants still owe \$1,500.00 in rent from November of 2008.

The Landlord is claiming compensation for loss of revenue for the month of December of 2008. The Landlord stated that she did not begin to advertise the rental unit until November 29, 2008, as she was not certain the Tenant would be leaving on December 01, 2008.

Analysis

In the absence of evidence to the contrary, I find that the Tenants still owe the Landlord \$50.00 in unpaid rent from October of 2008 and \$1,500.00 in unpaid rent from November of 2008.

I find that the Landlord is entitled to compensation for compensation for loss of revenue for one-half of one month's rent for December, in the amount of \$750.00. I find that it was reasonable for the Landlord not to find new tenants for December, as the Tenants had not vacated on November 12, 2008, as required by the Notice to End Tenancy, and they did not advise the Landlord of a date when they would vacate. I find that the Landlord lost rental revenue for the first two weeks of December to the Tenants failure to comply with a lawful notice to vacate the rental unit. I also find that it is unlikely that the Landlord will find new tenants for the rental unit prior to December 15, 2008.

I find that I am unable to award the Landlord compensation for loss of revenue for the entire month of December, as the Landlord may be able to rent the unit for December 15, 2008. The Landlord retains the right to seek compensation for loss of revenue for

the last two weeks in December, in the event that the rental unit is not rented on December 15, 2008.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenants' security deposit plus interest, in the amount of \$751.48, in partial satisfaction of the monetary claim.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$2,350.00, which is comprised on \$1,550.00 in unpaid rent, \$750.00 in loss of revenue, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenants' security deposit plus interest, in the amount of \$751.48, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$1,598.52. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: December 03, 2008