



Dispute Resolution Services

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

DECISION

Dispute Codes: MNSD, MNDC, MNR and FF

Introduction

This application was brought by the landlords seeking a Monetary Order for unpaid rent/loss of rent after the tenants left the rental unit without giving the required notice. The landlord also seeks the cost of carpet cleaning as per the rental agreement and recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing sent by registered mail on January 10, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlords is entitled to a Monetary Order for the unpaid rent/loss of rent, carpet cleaning and filing fee and authorization to retain the security deposit in set off.

Evidence

This tenancy ran from November 1, 2007 to December 30, 2008. Rent was \$943.67 per month and the landlord holds a security deposit of \$455 paid on October 20, 2007.

During the hearing, landlords gave evidence that the tenant had given notice to end the tenancy by email on December 1, 2008.

The landlords provided photographic evidence that the rental unit required extensive cleaning both inside and out, and submitted receipts for professional cleaning at \$350 and dumping fees of \$131.25. The landlords also submitted receipts from Home Depot for miscellaneous repair materials.

Finally, the landlords gave evidence, supported by a written submission from the previous tenants, that the oil tank was at least half full at the beginning of the tenancy, and the tenant had agreed that it would be left half full at the end of the tenancy.

Cost of filling the tank to half full was \$596.63, but the landlords claim \$463 in order to give the tenant the benefit of any doubt as to the amount used.

The landlords stated that they had returned \$322.16 of the security deposit to the tenant.

Claims and Analysis

The landlords claim and I find as follows:

January rent - \$1, 650. Sections 45 and 52 of the *Act* require that a tenant giving notice must give at least one month's notice delivered at least one day prior to the next rent due date. Therefore, the tenant would have to have given notice on November 30, 2008 to take effect on December 31, 2008..

As the tenant did not give notice until December 1, 2008, did not vacate until January 3, 2009, and left the rental unit in a state that required extensive cleaning, the landlords claim, and I find they are entitled to, loss of rent for January 2009. This part of the claim is allowed in full.

Cleaning costs - \$350. Based on the photographic evidence and a receipt from Sure Clean professional cleaners, I find this part of the claim should be granted in full.

Dumping fees - \$131.25. The landlords submitted four receipts for dumping fees following the end of the tenancy and, on the basis of photographs and the evidence of the landlords, this claim is allowed in full.

Fill oil tank - \$463. The rental agreement shows that heat was not included in the rent, and the landlords gave evidence from the previous tenant attesting that she had left the tank half full or more, her bill from Columbia Fuels, the landlords bill of \$596.53 paid at the end of the subject tenancy and a dipping scale showing the equivalent in litres for each inch of oil in the tank. As noted, in an effort to absorb more than any error in the estimate, the landlord's requested on \$463 from the tenant.

The landlords stated that the tenant had found even that estimate to be very high, but that the usage claimed would be in keeping with fuel oil usage for the length of time and seasons covered by the tenancy.

I find that the landlords are entitled to a Monetary Order, including recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off, calculated as follows:

January rent	\$ 1,650
Cleaning costs	350.00
Dumping fees	\$131.25
Heating oil	463.00
Filing fee	50.00
Portion of security deposit returned	<u>322.16</u>
Sub total	\$2,966.41
Less retained security deposit	- 800.00
Less interest (March 7, 2008 to Jan. 31, 2009)	- <u>9.84</u>
TOTAL	\$2,156.57

Thus, the landlords are authorized to retain the security deposit and interest, with credit for the portion returned, in set off and, in addition, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for the balance of \$2,156.57 for service on the tenant.

March 24, 2009.

Dispute Resolution Officer