



Dispute Resolution Services

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

DECISION

Dispute Codes: MNR, MNSD, MND, MNDC and FF

Introduction

This application was brought by the landlord seeking a Monetary Order for unpaid rent, damages and the filing fee for this proceeding and authorization to retain the tenant's security deposit in set off against the balance owed.

Issue(s) to be Decided

This matter requires a decision on whether the landlord has proven that the tenant owes rent, whether damages are proven and whether they are the responsibility of the tenant and whether the security deposit may be retained in set off.

Evidence and Analysis

This tenancy began on or about August 1, 2008 and ended on January 15, 2009 when the tenant moved out without giving notice. Rent was \$1,200 per month and the landlord holds a security deposit of \$600 paid on August 15, 2008.

This was a difficult dispute to address as the parties refused to continue arguing with one another throughout.

During the hearing, the landlord gave evidence that the tenancy agreement included an addendum which, among other things, provided that the tenant would repair and enclose the skirting on the subject manufactured home.

The tenant did not do so, and the water line froze in January resulting in the tenant abandoning the rental unit without giving notice and without paying the January rent. In addition, the tenant had a rent shortfall from December of \$500.

Consequently, the landlord seeks rent for January and loss of rent for February until March 5, 2009 when a new tenant moved in.

The parties also claimed property from one another, the landlord claiming the tenant took three surge protectors and the tenant claiming the landlord had taken his tires. Due to the jousting between the parties, I was unable to measure sufficient evidence to attempt a determination on that part of the claims.

Analysis

While the tenant had not initialed the addendum that had him repairing the skirt, I am persuaded that he was aware of the need to do so to a degree that I am comfortable in holding him responsible for the January rent. However, I find there is sufficient doubt that he should not be held responsible for the rent after January. The tenant claimed he had advised the landlord of the frozen water line, and under section 32 of the *Act*, it was her responsibility to see to its repair. At the same time, the tenant had a venue available to him under section 33 which authorized him to contract a repair service and deduct the cost from future rent. Neither party acted as they should.

On balance, I find that the tenant owes to the landlord, including recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off, an amount calculated as follows:

January rent	\$1,200.00
December rent shortfall	500.00
Filing fee	<u>50.00</u>
Sub total	\$1,750.00
Less retained security deposit	- 600.00
Less interest (Sept. 1, 2008 to date)	- <u>3.42</u>
TOTAL	\$1,146.58

Thus, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, in the amount of \$1,146.58 for service on the tenant.

March 26, 2009.

Dispute Resolution Officer