

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. Both parties gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application for a Monetary Order for unpaid rent and utilities, to keep the security deposit, and to recover the filing fee from the Tenants for the cost of this application.

Background and Evidence

Service

The Landlord testified that she mailed the Tenant XX a copy of the Application for Dispute Resolution and hearing package on February 11, 2009, by express post to the Tenant XX’s new residential address. The Landlord testified that she mailed the Tenant XX copies of the evidence on April 12, 2009. The Tenant admitted service of the hearing package and the Landlord’s evidence.

Landlord’s testimony

- The tenancy started on December 1, 2008. The monthly rent was \$1,225.00, due on the first day of the month.

- The Tenants gave late notice on January 7, 2009, to vacate the rental unit on February 5, 2009. The Tenants did not pay rent for the month of February, 2009.
- The rental suite was re-rented effective March 1, 2009.
- The Tenants failed to pay the utilities in the amount of \$60.00 for the month of January and \$195.00 for the month of February, 2009 (estimate). On January 14, 2009, the Landlord gave the Tenants written notice requesting payment of the utility charges.
- The Tenants vacated the rental unit on January 31, 2009.
- The Tenants paid a security deposit in the amount of \$610.00, on November 26, 2008.

Tenant XX's testimony

- The Tenant XX testified that she wanted to move out of the rental unit because it was too cold and her cellular telephone did not work in the rental unit. The Tenant XX testified that the Landlord did not provide a separate land line for a telephone, and that the charge to apply for a land line was too expensive for the Tenant.
- The Tenant XX testified that the Landlord did not explain how to give proper notice to move.
- The Tenant XX testified that the charge for utilities was too high.

Analysis

Section 45(1) of the Act states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The Tenants did not provide the Landlord with sufficient notice to vacate under the Act and therefore the Landlord is entitled to a monetary order for arrears in rent for the month of February, 2009.

The tenancy agreement did not include electricity or heat. The Landlord provided the Tenants with written demand for payment of January's utilities on January 14, 2009. The Landlord is entitled to a monetary order in the amount of \$60.00 for utilities for the month of January, 2009. I dismiss the Landlord's claim for recovery of the cost of utilities for the month of February, 2009, as it is an estimate and unproven.

The Landlord did not serve the Tenant JS with the notice of hearing documents, and therefore the monetary order will be against the Tenant XX only.

Pursuant to Section 72 of the Act, the Landlord may apply the security deposit, together with any accrued interest thereon, towards her monetary order.

The Landlord has been successful in her application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenant XX.

I therefore make a monetary order in favour of the Landlord, calculated as follows:

Unpaid rent for February, 2009:	\$1,225.00
Utilities for January, 2009:	\$60.00
Recovery of filing fee	\$50.00
Less security deposit and interest of \$.90	<u><\$610.90></u>
TOTAL	\$724.10

Conclusion

I grant the Landlord a monetary order for \$724.10 against the Tenant XX. This order must be served on the Tenant XX and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

May 4, 2009
