



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNSD, (MNDC), FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a Monetary Order to recover unpaid rent and a Monetary Order to recover the filing fee. The landlord has also requested to keep all of the security deposit plus any accrued interest in partial payment towards outstanding rent. The landlord has also requested a claim for money owed or compensation for loss or damage under the *Act*.

The landlord served the tenant by hand on April 10, 2009 with a copy of the Application and Notice of Hearing. I find that the tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the tenants' absence.

The agent for the landlord appeared, was provided the opportunity to present their evidence orally, in written form, documentary form and make submissions to me.

Issues(s) to be decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?
- Whether the landlord is entitled to a monetary order for compensation for loss or damage?

Background and Evidence

This tenancy started on January 31, 2009 and ended on March 31, 2009. Rent was \$995.00 per month payable on the 1st of each month. The tenant paid a security deposit of \$497.50 on January 31, 2009. The landlord testifies that the tenant moved from the rental unit without giving any Notice to the landlord on March 31, 2009 despite the rental agreement being for six months. The landlord is claiming a loss of income for rent for April and May, 2009. The landlord has had to clear rubbish and furniture from the rental unit at a cost of \$20.00 and clean the rental unit and carpets at a cost of \$184.71. The landlord has been advertising the rental unit in the local paper and internet sites but as of today it remains un-rented.

The landlord is also claiming a service fee of \$170.00 for delivery of the hearing documents to the tenants' new address. The landlord claims that the tenant did not provide a forwarding address and the landlord had to telephone the tenants' references to find the tenants new address. The landlord drove 138 kilometres to serve the hearing package on the tenant and found the tenants father to be aggressive towards him. The landlord asked the police to accompany him when he went back to serve the evidence package on the tenant.

Analysis

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that where a tenant has abandoned the premises and the tenancy has ended with the abandonment, notice must be given within a reasonable time after the landlord becomes aware of the abandonment and is in a position to serve the tenant with a notice or claim for damages. The damages to which a landlord is entitled is an amount sufficient to compensate the landlord for any loss of rent up to the earliest time the

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tenant could have legally ended the tenancy. Consequently, the earliest the tenant could have ended the tenancy would have been July 31, 2009. The landlords filed their application and served the tenants with Notice of this Dispute within a reasonable time frame. The landlords' intention is to re-rent the property as soon as possible and therefore they are claiming a loss of revenue for only April and May, 2009.

I find the landlord has provided sufficient evidence to uphold his claim for a loss of revenue of rent for April and May, 2009 of \$1990.00. The landlord has also provided sufficient evidence to support his claim for garbage and furniture removal, carpet cleaning and cleaning of the rental unit for \$204.71

The landlords claim for \$170.00 for service of documents on the tenant will not be considered as the landlord could have sent these documents by registered mail.

As the landlord has been mostly successful in this matter, he is entitled to recover the \$50.00 filing fee for this proceeding. I order pursuant to s. 38(4), of the *Act* that the landlord keeps the tenants' security deposit in partial payment towards the loss of revenue. The landlord will receive a monetary order for the balance owing as follows:

Loss of revenue April and May, 2009	\$1990.00
Cleaning of rental unit + carpets	\$184.71
Filing fee	\$50.00
Less security deposit	(-\$497.50)
Total	\$1,747.21

Conclusion



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A Monetary Order in the amount of **\$1,747.21** has been issued to the landlord and a copy of it must be served on the tenant. If the amount of the order is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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

Dated: May 12, 2009.

Dispute Resolution Officer