



# **Dispute Resolution Services**

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

## **Decision**

**Dispute Codes:** MNR, FF

### **Introduction**

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent and utilities, and recovery of the filing fee for this application. Both parties participated in the hearing and gave affirmed testimony.

As the tenants have now vacated the unit, the landlord withdrew his earlier application for an order of possession.

### **Issue to be decided**

- Whether the landlord is entitled to a monetary order under the Act

### **Background and Evidence**

There is no written residential tenancy agreement in place for this month-to-month tenancy which began on or around September 15, 2008. The parties agree that rent in the amount of \$1,300.00 was due on the first day of each month. The parties agree that a security deposit of \$650.00 was collected on August 31, 2008. The parties also agree that a pet damage deposit of \$150.00 was collected on August 31, 2008.

The tenants state that on April 15, 2009 they provided the landlord with written notice of their intent to vacate the unit effective May 15, 2009. However, there is no copy of this notice in evidence, nor is there any evidence that the tenants informed the landlord in writing of their forwarding address.

The landlord issued a 10 day notice to end tenancy for unpaid rent (\$1,300.00) and utilities (\$135.38) dated May 5, 2009. The tenants acknowledge having received the notice and they confirm that they did not subsequently pay any rent or utilities for May

2009. Further, the tenants deny there was any agreement with the landlord to the effect that certain utilities were not included in the rent. While the tenants state that they vacated the unit on or about May 14, 2009, the landlord disputes that the tenants left the unit that early.

In addition to a copy of the 10 day notice, evidence submitted by the landlord includes two copies of a civic utility bill, as follows:

- 1) Billing date: February 17, 2009. \$135.38 with respect to basic water, metered water, basic sewer, metered sewer and garbage for periods ranging variously in length overall from September 15, 2008 to January 15, 2009;
- 2) Billing date: April 14, 2009. \$251.76 with respect to the same utilities above, for periods ranging variously in length overall from December 15, 2008 to April 14, 2009.

In his application the landlord seeks a monetary order for specific compensation as follows:

\$1,300.00 – unpaid rent for May 2009

\$ 251.76 – unpaid utilities

Total: \$1,551.76

Plus the \$50.00 filing fee.

### **Analysis**

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated May 5, 2009.

The tenants did not pay the outstanding rent within 5 days of receiving the notice, did not apply to dispute the notice, and the tenants vacated the unit on or about May 14, 2009. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended.

As for the monetary order, I find that the landlord has established a claim of \$1,350.00. This is comprised of \$1,300.00 for unpaid rent for May 2009, in addition to recovery of the \$50.00 filing fee. Accordingly, I grant the landlord a monetary order under section 67 of the Act for \$1,350.00.

As there is no evidence of a written agreement entered into by the parties where it concerns payment of utilities, or any conclusive evidence as to a verbal agreement that may have been reached in this regard, I dismiss this aspect of the landlord's claim.

The landlord has made no application for retention of the security deposit or pet damage deposit in partial satisfaction of his claim. He has the option of doing so. Related to this, the attention of the parties is drawn to section 38 of the Act – **Return of security deposit and pet damage deposit**, and section 39 of the Act – **Landlord may retain deposits if forwarding address not provided**. The full text of the Act and other information relevant to the landlord – tenant relationship can be accessed at the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

### **Conclusion**

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,350.00**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 22, 2009

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Dispute Resolution Officer