



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This matter dealt with an application by the Landlords for a Monetary Order for loss of rental income and to recover the filing fee for this proceeding. The Landlords also applied to keep the Tenants' security deposit.

The Landlords served the Tenants with a copy of the Application and Notice of Hearing on May 19, 2009 by registered mail. According to the Canada Post online tracking system, the Tenants received the hearing package(s) on May 21, 2009. I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence.

Issues(s) to be Decided

1. Are the Landlords entitled to a loss of rental income and if so, how much?
2. Are the Landlords entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started as a one year fixed term tenancy on March 8, 2008 and continued on a month to month basis until May 31, 2009 when the Tenants moved out. Rent was \$1,200.00 per month. The Tenants paid a security deposit of \$600.00 at the beginning of the tenancy.

The Landlords claim that the Tenants gave them verbal notice on May 3, 2009 that they were ending the tenancy on May 31, 2009. The Landlords also claim that the rental unit could not be re-rented until July 1, 2009 despite being advertised for rent immediately and at a reduced rate of rent.

Analysis

Under section 45 of the Act, a Tenant of a periodic or month-to-month tenancy must give one clear months notice. Section 52 of the Act also says that notice must be in writing. Consequently, even if the Tenants had given written notice on May 3, 2009, the earliest that notice could take have taken effect would have been June 30, 2009. As a



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result, I find that the Landlords are entitled to recover loss of rental income for June, 2009.

As the Landlords have been successful in this matter, I also find that they are entitled to recover their \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) of the Act to keep the Tenants' security deposit plus accrued interest in partial payment of the damage award. The Landlords will receive a monetary order for the balance owing as follows:

Loss of rental income:	\$1,200.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$1,250.00
Less: Security deposit:	(\$600.00)
Accrued interest:	<u>(\$7.35)</u>
Balance owing:	\$642.65

Conclusion

A Monetary Order in the amount of **\$642.65** has been issued to the Landlords and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, 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: July 02, 2009.

Dispute Resolution Officer