

## **DECISION**

### **Dispute Codes:**

OPR

MNR

MNSD

FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of rent, to keep the security deposit paid by the Tenants; and to recover the cost of the filing fee from the Tenants.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

### **Preliminary Matter**

At the onset of the Hearing, the Landlord testified that the Tenants moved out on August 28, 2009, without leaving the keys to the rental unit. The Landlords changed the locks to the rental unit and re-rented the rental unit effective September 1, 2009. An Order of Possession is no longer required, and therefore the Landlord withdrew this portion of the claim. The Landlord also withdrew the application for loss of rent for the month of September, 2009.

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenants?

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

The Landlord served each of the Tenants with the Notice of Dispute Resolution documents. On August 5, 2009, the Landlord served the Tenant CF. On August 6, 2009, the Landlord served the Tenant TV. The Landlord served both Tenants at the rental unit, by handing the documents to the Tenants.

The Tenancy started on May 1, 2009. Monthly rent was \$1,300.00 per month, due the first day of each month. In addition, there was a "water charge" of \$10.00 per person. The Tenants paid a security deposit in the amount of \$650.00, as follows: \$450.00 on April 30, 2009 and \$200.00 on May 15, 2009. The Landlord provided a copy of the tenancy agreement in evidence.

On July 4, 2009, the Landlords issued a 10 Day Notice to End Tenancy for unpaid rent in the amount of \$850.00 and 75.00 in unpaid utilities. On July 6, 2009, the Landlords served the Tenants with the Notice to End Tenancy by posting in on the Tenants' door at the rental unit.

The Landlord testified that the Tenants had a dog, contrary to the terms of the rental agreement, and that there were two additional occupants in the rental unit. The Landlord testified that the Tenants therefore owed more utilities, as the rental agreement allowed for \$10.00 per month per person for utilities.

The Landlords provided copies of photographs taken at the rental unit after the Tenants moved out. The Landlord testified that the Tenants had done damages to the rental unit, by not cleaning it before moving; not shampooing the carpets, which were stained with dog urine; leaving garbage at the rental unit; damaging a door; damaging the ceiling downstairs; removing a light fixture and leaving holes and writing on the walls. The Landlord estimated damages to be \$2,985.00.

The Landlord also provided copies of receipts for rent and water charges paid by the Tenants. The Landlord testified that she did not provide a copy of an additional receipt for \$45.00, which the Tenants paid on June 27, 2009. These receipts represented payment of rent and water charges combined.

## **Analysis**

I accept the Landlord's testimony with respect to service of the Notice to End Tenancy and the Notice of Hearing documents on both Tenants. Despite being duly served, the Tenants did not attend the Hearing, and we proceeded in the Tenants' absence.

The Act allows a landlord to include utility arrears as outstanding rent if the landlord has provided the tenant with written demand for payment of the outstanding utilities and the utilities remain unpaid for a period of 30 days after written demand was made. In this case, the Landlords did not provide proof that the Tenants were provided with a demand letter for payment of utility arrears and therefore this portion of the Landlord's claim is dismissed without leave to reapply.

The Landlords provided evidence to suggest that they believe they may also have a claim for damages. However, a damage claim was not initially made when the Landlords filed their Application for Dispute Resolution and I make no orders with respect to any potential damage claim. The Landlord is at liberty to apply for damages to the rental unit, should they wish to do so.

In the absence of any evidence or testimony from the Tenants, and considering the testimony and documentary evidence provided by the Landlords, I find that the Landlords have established a claim for rental arrears in the amount of \$345.00 for July and \$1,300.00 for the month of August, 2009, for a total of \$1,645.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the Landlords' monetary claim. No interest has accrued on the security deposit.

The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenants.

The Landlord has established a monetary claim as follows:

Unpaid rent for the months of July and August, 2009	1,645.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,695.00
Less security deposit	- <u>\$650.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF</b>	<b>\$1,045.00</b>

### Conclusion

I hereby grant the Landlords a Monetary Order in the amount of \$1,045.00 against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) 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: September 30, 2009