



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent, for a loss of rental income, for carpet cleaning and advertising expenses and to recover the filing fee for this proceeding. The Landlord also applied to keep the Tenants' security deposit.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?
3. Is the Landlord entitled to recover carpet cleaning and advertising expenses?
4. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This month to month tenancy started on June 1, 2008 and ended on May 31, 2009 when the Tenants moved out. Rent was \$1,100.00 per month payable in advance on the 1st day of each month. The Tenants paid a security deposit of \$485.00 at the beginning of the tenancy.

The Landlord said the Tenants moved out without giving him notice and as a result, he was not able to re-rent the rental unit until June 15, 2009. The Landlord also said he incurred expenses of \$185.00 to advertise the rental unit in 2 local newspapers. The Landlord claimed that the Tenants did not have the carpets cleaned at the end of the tenancy as they were required to under the tenancy agreement and as a result he paid \$100.00 to have them professionally cleaned. The Landlord said the carpets were also professionally cleaned at the beginning of the tenancy.

The Landlord also claimed that the Tenants had arrears of rent of \$800.00 for April 2009 and did not pay rent for May 2009. The Landlord said he gave the Tenants file cards each month that showed what they had paid and this was their receipt. The Landlord said it was a term of the Addendum to the tenancy agreement that the Tenants would be charged \$100.00 for any additional occupants. The Landlord claimed that the

Tenants had an additional occupant reside with them for approximately the last 2 months of the tenancy.

The Tenants admitted that they did not give the Landlord written notice they were ending the tenancy but claimed they advised him verbally 2 months prior that they would be moving out as soon as possible. The Tenants said they did not know if they had arrears of rent for April 2009 because the Landlord never gave them receipts. They then claimed that they did pay rent in full for April 2009 but admitted that they did not pay rent for May 2009. The Tenants also admitted that they had another person living with them but claimed that when they advised the Landlord, he said it was fine and never mentioned anything about the \$100.00.

The Tenants claimed that the Landlord did not do a move in or a move out condition inspection report although they requested one when they moved in. The Tenants said the carpets were not in good condition and were dirty at the beginning of the tenancy. The Tenants admitted that part way through the tenancy they moved 2 cats into the rental unit.

Analysis

Section 45(1) of the Act says that a Tenant of a month-to-month tenancy must give one clear months notice that they are ending the tenancy. Section 52 of the Act says that the Notice must be in writing. If a Tenant does not give a Landlord the proper amount of notice, they may be liable a loss of rental income up to the earliest time the Tenant could have legally ended the tenancy. In the circumstances, the earliest the Tenants could have ended the tenancy (had they given written notice on May 31st) would have been June 30, 2009. As a result, I find that the Landlords are entitled to recover loss of rental income for ½ of June 2009 (including the utility portion) in the amount of **\$550.00**.

The Tenants did not dispute that rent was unpaid for May 2009 in the amount of **\$1,100.00** and as a result, I find that the Landlord is entitled to that amount. With respect to the issue of April 2009 rent, I found the Tenants to be evasive; they first claimed that they didn't know if there were arrears because they didn't get a receipt and then later claimed that they paid April rent in full. The Landlord claimed that \$800.00 is owed for April but provided no corroborating evidence such as a ledger book or copy of a receipt for partial payment. In this case, the Landlord must prove that rent for April is owed, however I find that he has not provided sufficient evidence to conclude that there are arrears of rent for April and as a result, that part of his claim is dismissed.

I also find that the Landlord is entitled to recover **\$100.00** for an extra occupant pursuant to the term in the tenancy agreement to that effect. Although the Tenants

Residential Tenancy Branch
Ministry of Housing and Social Development

argued that the Landlord did not say anything about charging them for this person at the time, I find that this does not constitute a waiver of his right to rely on that term of the tenancy agreement.

The Tenants argued that they should not be responsible for carpet cleaning because the carpets were not clean at the beginning of the tenancy. However, RTB Policy Guideline #1 says that a Tenant will generally be responsible for cleaning carpets after a tenancy of about a year and will also be responsible for cleaning them (during a shorter tenancy) if they have had pets or smoked inside. Consequently, I find that the Tenants were responsible for carpet cleaning (which is also a term of the tenancy agreement). The difficulty, however, is that the Landlord has provided no evidence (such as a receipt) in support of his claim for this expense and as a result, it is dismissed.

I find that there is no merit to the Landlord's claim for advertising expenses. There was no evidence that the Landlord incurred this expense because the Tenants moved out without notice. The Landlord admitted that he would have incurred the same advertising expenses even if the Tenants had given him proper notice. Furthermore, the Landlord did not provide any evidence (such as a receipt) in support of this claim and as a result, it is also dismissed.

As the Landlord has been successful on most of his claims, I find that he is entitled to recover the **\$50.00** filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants' security deposit plus accrued interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

May 2009 rent:	\$1,100.00
Loss of rental income:	\$550.00
Additional person fee:	\$100.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$1,800.00
Less: Security deposit:	(\$485.00)
Accrued interest:	<u>(\$4.25)</u>
Balance Owing:	\$1,310.75

Conclusion

A monetary order in the amount of **\$1,310.75** has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the



Dispute Resolution Services

Page: 4

Residential Tenancy Branch
Ministry of Housing and Social Development

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: October 01, 2009.

Dispute Resolution Officer