



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, MNSD, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for unpaid rent and utilities, for loss of rent revenue, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on November 19, 2009 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant via registered mail at the address noted on the Application. Canada Post tracking numbers and copies of the receipts were provided as evidence of service. The female tenant had given the landlord the forwarding address at the end of October and the landlord had confirmed this address by driving by the address where she saw the tenant's vehicles parked.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenants did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and utilities?

Is the landlord entitled to compensation for loss of November 2009, rent?

Is the landlord entitled to retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenants moved out of the rental unit on November 1, 2009, the tenancy commenced on March 1, 2009, rent was \$1,600.00. A deposit in the sum of \$800.00

was paid on January 26, 2009. The landlord has previously been provided with an Order for unpaid October rent.

The tenants were served with 2, 10 Day Notices to End Tenancy for Unpaid October rent; with effective vacancy dates of October 20 and October 31, 2009. On November 6, 2009 the landlord was issued an Order of possession via the direct request process. Due to the failure of the tenants to move out on October 20, 2009 the landlord could not advertise the rental unit as she did not know when the tenants would vacate.

Once the tenants moved out the landlord attempted to rent the unit using 2 popular web sites. The landlord stated the tenants left the rental unit in a mess; although she has not chosen to pursue a claim for the clean-up costs. The landlord was not able to locate new tenants until January 2010, but believes the tenants should be responsible for the loss of November rent.

The tenancy agreement excluded provision of water, gas and hydro service costs. The landlord submitted a copy of a City of Chilliwack utility bill dated December 1, 2009 for services at the rental unit. This bill includes unpaid prior charges in the sum of \$395.43. The landlord called the city of Chilliwack and was given a per diem rate for water and sewage usage for fees levied on the unpaid September bill that was due on October 23, 2009.

The December bill includes charges for water (\$49.83) plus sewer and garbage fees. The landlord is claiming the overdue utilities from September 21 to October 31, 2009 plus fees to October 31, 2009 in the sum of \$555.67. The landlord stated that the tenants understood they were responsible for all of the utility costs, but the tenancy agreement does not specifically reference each utility, and only references what is included.

Analysis

I find that the landlord is entitled to loss of November 2009 rent revenue as a result of the tenant's failure to move out of the unit by the effective date of the first Notice issued on October 10, 2009. The tenants left the rental unit in a state requiring the landlord to clean and to lose the opportunity to locate tenants for the first of the month. Therefore, pursuant to section 67 of the Act, I find the landlord is entitled to compensation in the sum of \$1,600.00.

In relation to utility costs, the landlord has provided verification of water fees charged and owed by the tenants from September 22 to December 2009 in the sum of \$49.83, or .55 per day. Therefore, I find that the landlord is entitled to water costs in the sum of \$22.00 for the period September 22 to November 1, 2009 inclusive. As water fees consist of 11% of the utility bill I find that the landlord is entitled to 11% of the previous overdue water utility charge in the sum of \$43.50. I find that the balance of the utility

fees claim is dismissed without leave as the tenancy agreement only required the tenants to pay hydro, gas and water service costs. Therefore, I find the landlord is entitled to utility costs in the amount of \$65.50.

I find that the landlord is entitled to retain the deposit paid in the sum of \$800.00, in partial satisfaction of the compensation claimed.

I find that the landlord's application has merit, and I find that the landlord entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the landlord established a monetary claim, in the amount of **\$1,715.50**, which is comprised of \$1,600.00 November rent revenue loss, \$65.50 water utility costs and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The balance of the landlord's Application for compensation is dismissed without leave to reapply.

The landlord will retain the deposit paid in the sum of \$800.00 in partial satisfaction of the claim and I have issued a monetary Order for the balance owed in the amount of **\$915.50**. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court 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: March 22, 2010.

Dispute Resolution Officer