

## **DECISION**

Dispute Codes      MNR, FF, O

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and utilities, for a loss of rental income, for cleaning expenses, service fees and bank charges as well as to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing by registered mail on October 29, 2009. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to a loss of rental income and if so, how much?
3. Is the Landlord entitled to recover other expenses related to the ending of the tenancy and if so, how much?

### Background and Evidence

This fixed term tenancy started on September 15, 2009 and was to expire on February 15, 2010, however it ended on or about October 21, 2009 when the Tenant moved out. Rent was \$1,250.00 per month plus utilities. The Tenant paid a security deposit of \$625.00 at the beginning of the tenancy.

The Landlord said that the Tenant was supposed to pay a pet damage deposit of \$312.50 with his rent for the period, October 15, 2009 to November 14, 2009 however the Tenant put a stop payment on that cheque. The Landlord also said that the Tenant's cheque for payment of utilities in the amount of \$56.78 also did not clear. The Landlord claimed that he was charged 2 NSF fees from his bank for these 2 cheques. The Tenant gave the Landlord written authorization on October 16, 2009 to keep the security deposit to offset the unpaid rent.

The Landlord said the Tenant gave him verbal notice on October 15, 2009 that he would be ending the tenancy. The Landlord said he served the Tenant with a 10 Day Notice to End Tenancy on October 19, 2009. On October 21, 2009 the Tenant advised the Landlord that he would not be returning to the rental unit to remove garbage or to participate in a move out inspection and as a result, the Landlord claimed \$100.00 for removing garbage and cleaning the rental unit. The Landlord completed a move out condition inspection report without the Tenant on October 22, 2009.

## Analysis

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Section 45(2) of the Act says that a tenant of a fixed term tenancy cannot end the tenancy earlier than the date set out in the tenancy agreement as the last day of the tenancy. If a tenant ends a tenancy earlier, they may have to compensate the landlord for a loss of rental income that he incurs as a result.

In the absence of any evidence from the Tenant to the contrary, I find that rent for October 15 – October 21, 2009 is unpaid and that the Landlord is entitled to a loss of rental income for the period, October 22 – November 14, 2009 as well as unpaid utilities of \$56.78. I further find that the Landlord is entitled pursuant to s. 7 of the Regulations to the Act to recover bank charges of \$12.00 for the Tenant's 2 NSF cheques.

Section 37 of the Act says that at the end of a tenancy, the Tenant must leave the rental unit clean and undamaged except for reasonable wear and tear. Based on the evidence of the Landlord and in the absence of any evidence to the contrary from the Tenant, I find that the Landlord was required to do additional cleaning and garbage removal at the end of the tenancy and as a result, he is entitled to compensation of \$100.00. As the Landlord has been successful in this matter, I find that he is also entitled to recover his service expenses of \$7.50 and the \$50.00 filing fee for this proceeding. Consequently, the Landlord will receive a monetary order as follows:

Unpaid rent/Loss of rent:	\$1,250.00
Unpaid utilities:	\$56.78
NSF Fees:	\$12.00
Cleaning expenses:	\$100.00
Registered mail fees:	\$7.50
Filing fee:	<u>\$50.00</u>
Subtotal:	\$1,476.28
Less: Security deposit:	(\$625.00)
Accrued interest:	<u>(\$0.00)</u>
Balance owing:	\$851.28

## Conclusion

A Monetary Order in the amount of **\$851.28** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, 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: March 01, 2010.

---

Dispute Resolution Officer