

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the Act, an Order to keep all or part of the security deposit and to recover the cost of the filing fee. At the outset of the hearing the landlords' agent stated that the tenants have moved from the rental unit and therefore the landlord withdraws their application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, and was given in person to both tenants on February 19, 2010 by the landlords' agent who is in attendance at this hearing.

The landlords agent gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

- Is the landlord entitled to keep the tenants security deposit?

Background and Evidence

This tenancy started on December 18, 2009. It was a fixed term tenancy for six months and was due to expire on June 30, 2010. The rent for this unit was \$825.00 per month and was due on the first of each month. The tenants paid a security deposit of \$412.50 on December 16, 2009.

The landlords' agent testifies that the tenants did not pay all the rent owed for February, 2010 and a 10 Day Notice to End Tenancy was issued on February 02, 2009. This Notice was posted to the tenant's door and the landlord has provided a proof of service document which states the 10 Day Notice was posted to the tenant's door on February 02, 2010 at 1.33 p.m.

The landlords' agent testifies that the tenants paid the outstanding rent for February but failed to pay all the rent for March, 2010 leaving a balance of rent owed of \$425.00. The tenants moved from the rental unit on or around April 01 or 02, 2010 without notifying the landlord or giving Notice. The landlords' agent testifies that the tenants have left the rental unit in a state, in which they have been unable to re-rent it for April, 2010. The landlords have reduced the amount of the monetary claim to \$1550.00

The landlord requests a Monetary Order for the balance of rent for March, 2010 of \$425.00 and rent for April, 2010 of \$825.00. The landlord also seeks to recover the amount of \$250.00 which was a sum of money given to the tenants as an incentive when they moved into the rental unit. The move in expenses agreement provided by the landlord states that this amount will be recovered by the landlord if the tenancy ends before the end of the fixed term.

The landlord requests an Order to keep the security deposit and recover the filing fee.

Analysis

The tenants did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I find that the landlord has provided sufficient evidence to support their claim for unpaid rent. Section 26 of the Act states that a tenant must pay rent on the day it is due under the tenancy agreement. In this case I find the tenants owe an outstanding balance of rent for March, 2010 of **\$425.00**. I also find the tenants left the rental unit on or about April 1 or 2, 2010 and the landlord has been unable to re-rent the unit throughout April, 2010. Consequently, I find the landlord has established his claim for rent for April, 2010 of **\$825.00** and the landlord is entitled to a Monetary Order pursuant to section 67 of the *Act*.

I find the landlord has established his claim for a Monetary Order for the return of the moving expense fee paid to the tenants at the start of their tenancy. As the tenants moved out before the end of the fixed term the landlord is entitled to recover this expense paid to the tenants. Therefore, I find the landlord is entitled to recover the amount of **\$250.00** pursuant to section 67 of the *Act*.

As the Landlord has been successful in this matter, he is also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to section 72(1) of the *Act*.

I order the Landlord pursuant to s. 38(4)(b) of the *Act* to keep the tenant's security deposit of \$412.50 in partial payment of the rent arrears. The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for March and April, 2010	\$1,250.00
Filing fee	\$50.00
Subtotal	\$1,550.00
Less security deposit	(-\$412.50)
Total amount due to the landlord	\$1,137.50

Conclusion

A Monetary Order in the amount of **\$1,137.50** has been issued to the landlord and a copy of it must be served on the tenants. If the amount of the order 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: April 09, 2010.

Dispute Resolution Officer