

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for compensation for a loss of rental income, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in payment of those amounts.

The Landlord said she served the Tenants with a copy of the Application and Notice of Hearing by registered mail on February 3, 2010. Based on the Landlord's evidence, I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

On January 15, 2010, the Tenants signed a tenancy agreement for a month to month tenancy starting February 1, 2010 at a rental rate of \$725.00 per month. The Tenants paid a security deposit of \$362.50 and a pet damage deposit of \$200.00 and signed a move in condition inspection report on February 1, 2010. However, the Landlord said that the Tenants did not move in and the rental unit could not be re-rented until April 17, 2010. As a result, the Landlord claimed that she incurred a loss of rental income. The Landlord said that the Tenants' pet deposit was returned to them.

Analysis

Section 45(1) of the Act states that a Tenant of a month-to-month tenancy must give one clear months notice in writing that they are ending the tenancy. As a result, I find that the Tenants were required to give one month's written notice to end their tenancy and the earliest they could have ended the tenancy would have been March 31, 2010. However, the Landlord decided to limit her losses to only one half of the rent for February 2010 and as a result, I find that she is entitled to recover \$362.50. As the Landlord has been successful in this matter, I also find that she 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 in payment of the loss of rental income claim. The Landlord will receive a monetary order for the balance owing of \$50.00.

Conclusion

A monetary order in the amount of \$50.00 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 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: May 04, 2010.

Dispute Resolution Officer