

## **DECISION**

**Dispute Codes:** MNR, MNDC, MNSD and FF

### **Introduction**

This application was brought by the landlords seeking a Monetary Order for unpaid rent, losses resulting from the tenant leaving the fixed term agreement early, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against any balance found owing.

Despite having been served with the Notice of Hearing sent by registered mail on July 12, 2010, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

### **Issues to be Decided**

This application requires a decision on whether the landlords are entitled to a Monetary Order for the claims submitted, recovery of the filing fee for this proceeding and authorization to retain the security and pet damage deposits in set off.

### **Background, Evidence and Analysis**

This tenancy began on December 1, 2009 under a fixed term rental agreement set to end on November 30, 2010. Rent was \$1,350 per month and the landlords hold a security deposit of \$675.

During hearing, the landlord gave evidence that the tenant gave notice on May 31, 2010 that she needed to leave the tenancy early due to relocation of her employment. At the

same time, the tenant advised that she would be having some difficulty paying the June rent and the cheque was subsequently returned NSF.

While the tenant made payment of \$600 toward the June rent, a second cheque for part of the remaining portion was returned NSF. The balance of the June rent remained unpaid at the time of the hearing.

The tenant also failed to pay the \$100 move out fee imposed by the strata corporation as she had agreed. The keys were received by the landlord on July 5, 2010 by mail sent on July 2, 2010. While the tenant and the landlords attempted to find a new tenant, they were unable to begin a new tenancy until August 1, 2010.

The landlords' claims for travel expenses and postage are regarded as business expenses and cannot be awarded under the *Act*.

## **Analysis**

Section 45(2)(b) of the *Act* provides that a tenant's notice to end a fixed-term tenancy agreement cannot take effect on a date before the end of tenancy set by the agreement. Therefore, the tenant becomes liable the landlord's losses arising from the tenant's breach, subject to the duty to mitigate losses imposed by section 7 of the *Act*.

In this matter I find that the tenant is responsible for the unpaid rent, loss of rent, move-out fee, NSF fees and filling fee, and authorization to retain the security deposit in set off as follows:

Rent shortfall for June 2010	\$ 750.00
Loss of rent for July 2010	1,350.00
NSF fees (\$15 x 2)	30.00
Strata move-out charge	100.00
Filing fee	<u>50.00</u>
Sub total	\$2,280.00
Less retained security deposit	- 675.00
<b>TOTAL</b>	<b>\$1,605.00</b>

### **Conclusion.**

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$1,605.00 for service on the tenant.

August 31, 2010