



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNDC, FF, SS

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee for this proceeding and to service the documents or evidence in a different way than required by the Act.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") in person on September 19, 2010. The Landlord said that the Tenant's did not give him a forwarding address and it took him from August 19, 2010, the application date, to September 19, 2010 to find the Tenant. The Landlord requested the late service of the documents be allowed. 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. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to compensation for damage or loss and if so how much?

Background and Evidence

This tenancy started on April 24, 2010 as a 1 year fixed term tenancy with an expiry date of April 30, 2011. Rent was \$1,195.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$600.00 on April 1, 2010. The Tenancy ended on August 15, 2010 when the Tenant moved out of the rental unit. The Landlord said the Tenant abandoned the unit and left without giving notice or providing a forwarding address.

The Landlord said that the Tenant did not pay \$1,195.00 of rent for July, 2010 and \$1,195.00 of rent for August, 2010 when it was due and as a result, on August 6, 2010 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated August 6, 2010 to the Tenant. The Landlord continued to say that the Tenant also owes a share of the utilities. The Landlord said the Tenant's hydro bill is \$148.00 and the gas bill is \$37.00. The Landlord said he has not rented the unit to a new tenant



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because they have been doing repairs to the unit. In addition the Landlord said that as this is a fixed term tenancy with an expiry date of April 30, 2011, therefore the Tenant has unpaid rent for September, October, November and December 2010 in the amount of $4 \times \$1,195.00 = \4780.00 .

The Landlord continued to say that the Tenant did not clean the unit when they left and the Tenant caused considerable damage to the unit. The Landlord said the costs of cleaning and repairing the unit s are as follows:

Painting	\$ 1,600.00	
Repairs	\$ 400.00	
Cleaning	\$ 400.00	
HST on above	\$ 288.00	
Materials	\$ 789.72	
Sub Total		\$ 3,477.72
Replace Blinds	\$ 600.00	
Carpet Cleaning	\$ 185.00	
HST	\$ 94.20	
Sub Total		\$ 879.20
Total		\$ 4,356.92

The Landlord submitted receipts for the costs of the repairs and provided two witnesses that gave testimony that the repairs were completed as the Landlord stated.

Analysis

Section 26 of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant did not have the right under the Act to deduct all or a portion of the rent therefore I find the Tenant is responsible for the rent for July, 2010 and August, 2010 in

the amount of $2 \times \$1,195.00 = \$2,390.00$. As well, the Tenant is responsible for the rent of a fixed term tenancy until the term ends or if the unit is abandoned, until the Landlord can rent the unit to a new tenant. This tenancy agreement has a fixed term until April 30, 2011. The Landlord said the unit was abandon on August 15, 2010 and he has not rented the unit as he has been doing repairs to it. Section 7 (2) of the Act says that a landlord or tenant claiming compensation for damage or loss must do whatever is reasonable to minimize or mitigate the damage or loss. I find the Landlord is entitled to rent payments for September, 2010 and October 2010 in the amount of $2 \times \$1,195.00 = \$2,390.00$ as the invoices for the repairs are dated October 5, 2010 and October 13, 2010, which indicates there may have been an opportunity to rent the unit starting November, 2010. It is the Landlord's responsibility to minimize his loss by renting the unit as soon as possible.

In addition I find for the Landlord for the unpaid utilities of \$185.00.

Section 37 says when a tenant leaves a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

The Landlord submitted into evidence photographs and invoices for repairs of the rental unit that indicate cleaning of the unit was required and there was considerable damage to the unit. I find in favour of the landlord for the following damages:

Painting	\$ 1,600.00	
Repairs	\$ 400.00	
Cleaning	\$ 400.00	
HST on above	\$ 288.00	
Materials	\$ 789.72	
Sub Total		\$ 3,477.72
Replace Blinds	\$ 600.00	
Carpet Cleaning	\$ 185.00	
HST	\$ 94.20	
Sub Total		\$ 879.20
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As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$ 2,390.00
Loss of Rental Income:	\$ 2,390.00
Unpaid Utilities	\$ 185.00
Recover filing fee	\$ 50.00
Damages	\$ 4,356.92
Total	\$ 9,371.92

Conclusion

A Monetary Order in the amount of \$9,371.92 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia

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*.