



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

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

The Landlord's agent said that on October 16, 2010, she served the Tenants with a copy of the Application and Notice of Hearing (the "hearing package") by registered mail to the Tenants' forwarding address however those hearing packages were returned to her unclaimed. The Landlord's agent said she also left telephone messages at a telephone number given to her by the Tenants but they did not return her calls. Section 90(a) of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

Issue(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for a loss of rental income and if so, how much?
3. Is the Landlord entitled to recover cleaning expenses and if so, how much?
4. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on April 1, 2008 as a one year fixed term tenancy and continued on the expiry of it as a month-to-month tenancy. The Tenants moved out on September 9, 2010. Rent was \$1,272.00 per month payable in advance on the 1st of each month. The Tenants paid a security deposit of \$602.50 at the beginning of the tenancy.

The Tenants gave the Landlord written notice on September 2, 2010 that they were ending the tenancy on September 15, 2010. The Landlord's agent said she immediately advertised the rental unit on a number of online publications and in a local

newspaper but the unit could not be re-rented until November 1, 2010. Consequently, the Landlord sought a loss of rental income for October 2010.

The Landlord's agent also said that one of the cheques given to her in the amount of \$657.00 in partial payment of September 2010 rent was returned for non-sufficient funds. Consequently the Landlord sought unpaid rent of \$657.00 as well as a late payment fee of \$25.00.

The Landlord's agent also sought expenses for carpet cleaning of \$100.00 and suite cleaning (including drape cleaning) in the amount of \$60.00. The Landlord provided an invoice for general cleaning and drape cleaning in the amount of \$42.00.

Analysis

In the absence of any evidence from the Tenants to the contrary, I find that there are rent arrears in the amount of \$657.00 for September 2010 and I award the Landlord that amount together with a late fee of \$25.00 pursuant to a term of the tenancy agreement to that effect.

Under section 45 of the Act, a Tenant of a month-to-month tenancy must give one full calendar month's notice that they are ending the tenancy. If a Tenant does not do this, they could be liable to compensate a Landlord for any loss of rental income she incurs as a result. However, s. 7(2) of the Act states that a party who suffers damages must do whatever is reasonable to minimize their losses. This means that a landlord must try to re-rent a rental unit as soon as possible to minimize a loss of rental income.

I find that the Tenants gave their written Notice they were ending the tenancy to the Landlord on September 2, 2010 and therefore the earliest they could have ended the tenancy would have been October 31, 2010. In the absence of any evidence from the Tenants to the contrary, I find that the Landlord took reasonable steps to try to re-rent the rental unit for October 2010 but was unable to do so. As a result, I find that the Landlords are entitled to recover a loss of rental income for October 2010.

The Landlord completed a move out condition inspection report with one of the Tenants on September 9, 2010. On that report, the Tenant gave her written consent to the Landlord to deduct \$100.00 for carpet cleaning, \$40.00 for suite cleaning and \$20.00 for drape cleaning. The Landlord said it is a term of the tenancy agreement that the carpets must be professionally cleaned at the end of the tenancy. Based on the evidence of Landlord, I find that she is entitled to recover \$100.00 for carpet cleaning. However based on the invoice for suite and drape cleaning provided by the Landlord, I find that the Landlord has only made out a claim for \$42.00 for those items.

As the Landlord has been successful in this matter, I find that the Landlord is entitled pursuant to s. 72(1) of the Act to recover from the Tenants 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 plus accrued interest in partial payment of the damage award. The Landlord will receive a Monetary Order for the balance remaining as follows:

Unpaid Rent September 2010:	\$657.00
Late Fee:	\$25.00
Loss of rental income:	\$1,272.00
Carpet cleaning:	\$100.00
General cleaning:	\$42.00
Filing Fee:	<u>\$50.00</u>
Subtotal:	\$2,146.00
Less: Security deposit:	(\$602.50)
Accrued interest:	<u>(\$6.79)</u>
Balance Owing:	\$1,536.71

Conclusion

A Monetary Order in the amount of **\$1,536.71** 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: February 15, 2011.

Residential Tenancy Branch