



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, a monetary order for damage to the unit and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This 1 year fixed term tenancy began May 15, 2010 with monthly rent of \$2000.00 and the tenants paid a security deposit of \$1000.00.

The landlord testified that the tenants did not pay the January 2011 or February 2011 rent and owe the landlord \$2000.00 in unpaid rent. The landlord stated that they have also incurred a BC Hydro reconnection fee of \$140.00 due to the actions of the tenants are requesting compensation for this amount.

The tenants stated that when they had problems with the residence the only way they could contact the landlord was by phone as the landlord refused to give the tenants a contact address other than that of the tenant's residence. The tenants stated that due to the serious on-going problems and lack of response by the landlord they gave the landlord notice per section 45 of the Act and vacated the rental unit March 4, 2011.

The tenants testified that after the City of Vancouver had red tagged the gas meter and they had been without heat or hot water for two weeks, the landlord made a verbal agreement with the tenants that if the tenants did not file a claim for compensation against the landlord, the tenants could stay until the end of February and not pay rent. The landlord stated that he remembered having this conversation with the tenants but

had never agreed to it. The landlord then stated that they did agree to allow the tenants to deduct \$1134.00 from the rent for not having heat or hot water but then stated in this hearing that he would no longer be willing to give the tenants this rent credit for lack of services or facilities.

The tenants testified that they had rented the whole house but that due to the repairs required in the basement suite they vacated the basement suite on February 15 to accommodate the landlord's contractors. The tenants stated that as some of them vacated in January and the remaining tenant rarely home, the BC Hydro was disconnected and the landlord had to put the BC Hydro in their name. The tenants stated that this only made sense as the landlord's contractors were the people working every day in the house and using the electricity. The landlord is requesting to be reimbursed for the electrical connection fee as he feels the electrical should have stayed in the tenant's name.

Analysis

Based on the documentary evidence and testimony I find that the landlord is entitled to compensation for unpaid rent for the month of January 2011 and a pro-rated amount (15 days @ \$66.66 per day) for the month of February 2011 as the tenants gave the landlord notice per section 45 (3) of the Act which states:

If a landlord has failed to comply with a material term of the tenancy agreement or, in relation to an assisted or supported living tenancy, of the service agreement, and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

The landlord is not entitled to compensation for the \$140.00 BC Hydro reconnection fee. The landlord during the last month of the tenancy had contractors utilizing the electrical on a daily basis in order to complete renovations in the basement, this portion of the landlords application is dismissed.

I find that the landlord has established a claim for \$2999.99 in unpaid rent.

As the landlord has some success in their application the landlord is entitled to recover \$25.00 of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$2999.99 in unpaid rent. The landlord is also entitled to recover \$25.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$1000.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2024.99** ($\$2999.99 + \$25.00 = \$3024.99 - \$1000.00 = \2024.99)

A monetary order in the amount of **\$2024.99** 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: June 16, 2011.

Residential Tenancy Branch