

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and utilities and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:12 a.m. in order to enable them to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on February 8, 2011. The landlord testified that he handed the tenant(s) a copy of his dispute resolution hearing package on March 15, 2011. I am satisfied that the landlord served these documents in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and utilities? Is the landlord entitled to a monetary award for damage or loss arising out of this tenancy? Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for his application from the tenants?

### Background and Evidence

The landlord testified that this tenancy began on August 1, 2007. By the time the landlord obtained title to this property on January 1, 2011, the monthly rent for this month-to-month tenancy was \$1,700.00 plus \$200.00 for utilities payable on the first of each month. The landlord testified that he continues to hold the tenants' \$850.00 security deposit paid to the previous landlord on July 20, 2007.

The landlord testified that the tenants never paid any payments to him. The landlord testified that the tenants vacated the rental unit on February 25, 2011, after receiving his 10 Day Notice. He testified that the tenants did not pay any portion of the rent or utilities owing for January or February 2011.

The landlord applied for a monetary award of \$8,800.00. This amount included the unpaid rent and utilities from January and February 2011, plus losses that he incurred for subsequent months after the tenants vacated the rental unit. The landlord also asked for reimbursement for damage that occurred during the tenancy to furniture and appliances, and for the mess he had to clean up when the tenants left the premises in poor condition at the end of this tenancy.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Based on the undisputed evidence presented by the landlord, I allow the landlord's application for a monetary award for unpaid rent and utilities for January and February 2011. For each of these months, I find that the landlord is entitled to receive the \$1,700.00 in rent identified in the tenants' residential tenancy agreement with the former landlord plus \$200.00 each month for utilities.

I also find that the landlord is also entitled to a monetary award of \$850.00 for March 2011, an amount that compensates him for the equivalent to one-half of the monthly rent he was supposed to be receiving from the tenants. I make this order because I accept the landlord's undisputed testimony that the tenants' end to this tenancy late in February made it difficult for him to clean and repair the property and rent to another tenant in March 2011. The landlord did not submit sufficient evidence to warrant a higher monetary award for March 2011 or subsequent months.

The landlord provided no evidence of receipts, invoices or estimates, no photographic evidence, and no evidence of move-in or move-out condition inspections of the rental premises. Under these circumstances, the landlord has failed to provide evidence to verify the actual monetary amount of loss he suffered as a result of this tenancy. I dismiss the landlord's application for a monetary award for damage arising out of this tenancy without leave to reapply.

I allow the landlord to retain the tenants' security deposit plus interest in partial satisfaction of the monetary award issued. As the landlord has been successful in his application, I allow him to recover his filing fee for this application from the tenants.

### Conclusion

I issue a monetary award in the landlord's favour in the following terms which allows the landlord to recover unpaid rent and utilities, the landlord's loss of rent for one-half of March 2011, and to recover the filing fee for his application. I also allow the landlord to keep the tenants' security deposit plus interest in partial satisfaction of this award.

<b>Item</b>	<b>Amount</b>
Unpaid January 2011 Rent	\$1,700.00
Unpaid January 2011 Utilities	200.00
Unpaid February 2011 Rent	1,700.00
Unpaid February 2011 Utilities	200.00
Loss of Rent for ½ of March 2011	850.00
Less Security Deposit plus Interest (\$850.00 + \$18.59 = \$868.59)	-868.59
Recovery of Filing Fee for this application	100.00
<b>Total Monetary Order</b>	<b>\$3,881.41</b>

The landlord is provided with a formal copy of an Order of Possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme 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*.