

## **Decision**

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

### **Introduction**

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the combined security & pet damage deposits / and recovery of the filing fee. Both parties participated and gave affirmed testimony.

### **Issues to be decided**

- Whether the landlord is entitled to any or all of the above under the Act, Regulation or tenancy agreement

### **Background and Evidence**

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the fixed term of tenancy was from October 1, 2009 to September 30, 2010. Thereafter, tenancy continued on a month-to-month basis. Monthly rent was \$1,200.00. A security deposit of \$600.00 and a pet damage deposit of \$200.00 were collected. There is no move-in condition inspection report in evidence.

The landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated March 8, 2011. The date shown on the notice by when the tenants must vacate the unit is March 19, 2011. However, during the hearing the parties did not dispute that the tenants actually vacated the unit on April 1, 2011. Further, the parties agree that the level of rent agreed to between them for March was \$1,000.00, even while no rent for that month was ever actually paid.

Further to a monetary order as compensation for unpaid rent for March 2011, as above, in his application the landlord seeks compensation as follows:

\$1,200.00: loss of rental income for April 2011

\$133.28: cost of carpet cleaning

\$50.00: filing fee

In relation to loss of rental income for April 2011, the landlord testified that no advertising for new renters took place after the tenants vacated on April 1, 2011. Further, he testified that towards the end of June he decided to sell the unit and it was placed on the market. Presently, the unit has still not sold and it remains unoccupied.

As to carpet cleaning, the tenants testified that they cleaned the carpet themselves at the end of tenancy. The landlord testified that his request for compensation in this regard arises out of an estimate obtained, and that no cost for carpet cleaning has actually been incurred. While the parties completed a walk-through of the unit at the end of tenancy, no move-out condition inspection report was completed.

### **Analysis**

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

In the absence of any dispute between the parties on this particular matter, I find that the landlord has established entitlement to compensation of **\$1,000.00\*** arising from unpaid rent for March 2011.

In relation to a claim for loss of rental income for April 2011, I draw the attention of the parties to section 7 of the Act which speaks to **Liability for not complying with this Act or a tenancy agreement**, and provides in part as follows:

7(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

In the absence of any evidence that the landlord undertook to mitigate his loss, by way of advertising for new renters for example, I find that the landlord has established entitlement limited to **\$40.00\***, which is calculated as the equivalent of 1 day's rent for April 1, 2011, on the basis of monthly rent of \$1,200.00 ( $\$1,200.00 \div 30$ ).

In regard to the claim for carpet cleaning costs, the attention of the parties is drawn to section 24 of the Act which speaks to **Consequences for tenant and landlord if report requirements not met**, and provides in part as follows:

24(2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to a residential property is extinguished if the landlord

(c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

Following from the above statutory provision, and the absence of comparative results of move-in and move-out condition inspection reports, in addition to the absence of any cost having been incurred by the landlord for cleaning the carpets, this aspect of the application is hereby dismissed.

As the landlord has achieved a measure of success with his application, I find that he has established entitlement to recovery of the **\$50.00\*** filing fee.

The total entitlement is therefore **\$1,090.00** (\$1,000.00 + \$40.00 + \$50.00). I order that the landlord retain the security deposit and pet damage deposit in the combined amount of **\$800.00** (\$600.00 + \$200.00), and I grant the landlord a monetary order under section 67 of the Act for the balance owed of **\$290.00** (\$1,090.00 - \$800.00).

The monetary order above is independent of proceedings pursuant to which a monetary order was issued by date of March 31, 2011 in favour of the tenants for \$429.00. The parties are encouraged to reconcile any offsetting of the monetary orders directly between them.

### **Conclusion**

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$290.00**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court 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*.

**DATE: July 27, 2011**

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Residential Tenancy Branch