



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on May 20, 2011. Based on the evidence of the Landlord, I find that the Tenants was served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' 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. Are there damages to the unit and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on April 1, 2011 as a fixed term tenancy with an expiry date of March 31, 2012. Rent was \$825.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$400.00 on April 2, 2011. The Landlord said the Tenants moved out of the rental unit on April 30, 2011 or early May 1, 2011 without notice to the Landlords.

The Landlord said that the Tenant did not pay \$825.00 of rent for May, 2011. As well the Landlord said the Tenants left the rental unit in an unclean state and there was damage to the laminate floor. The Landlord said they are applying for the May, 2011 rent of \$825.00 and the security deposit to cover the cleaning costs and damage to the rental unit. The Landlord said they did a move in condition inspection report and they submitted it with their evidence package.

The Landlord continued to say they are claiming \$50.00 for carpet cleaning and \$250.00 for their labour to cleaning the unit as there was grease and oil on the carpets and walls. The Landlord continued to say they are also claiming \$150.00 they paid to have holes in the walls repaired but the Landlord said they did not have a receipt for that work.

The Landlord closed her remarks by saying the rental unit was rented out to new tenants on May 15, 2011.

Analysis

Section 26 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.

Section 45 of the Act says a Tenant may end a fixed term tenancy not earlier than the date specified in the tenancy agreement and it must be with written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the May, 2011 rent that the Landlords loss in the amount of \$412.50 which represents the rent for May 1, 2011 to May 15, 2011 the day the unit was rented to new tenants.

As well, I accept the Landlords' testimony that establishes grounds to receive compensation for the carpet cleaning of \$50.00 and for their labour of \$250.00 to clean the rental unit after the Tenants moved out. I dismiss the claim for wall repairs of \$150.00 as no receipt was provided in the evidence to proof the loss actually occurred.

As the Landlords have been partially successful in this matter, they are also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 412.50
	Cleaning costs	\$ 300.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$ 762.50
Less:	Security Deposit	\$ 400.00
	Subtotal:	\$ 400.00
	Balance Owing	\$ 362.50

Conclusion

A Monetary Order in the amount of \$362.50 has been issued to the Landlords. A copy of the Orders must be served on the Tenants: 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*.

Residential Tenancy Branch