



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damage to the unit, a monetary order for unpaid rent, to keep all or [part of the security deposit 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 fixed term tenancy began August 1, 2010 with monthly rent of \$1700.00 and the tenants paid a security deposit of \$850.00.

The landlord testified that in January 2011 they and the tenants were discussing the tenants breaking the lease. The landlord stated that they had finally reached an agreement with the tenants and the tenants provided their notice to end tenancy to the landlord by email on January 8, 2011. The landlord stated that the tenants then vacated the rental unit on February 1, 2011 and did not pay the February rent.

The landlord also stated that the tenants had damaged the carpeting downstairs and that it had to be replaced.

The tenant testified that they had given notice to the landlord as there was no heat in the rental unit and they continually had plumbing issues that the landlord was not fixing. The tenant stated that they vacated February 1st as they simply could not expose their very young children to the conditions in the rental unit.

The landlord in this application is seeking \$2550.00 compensation for unpaid rent and damages to the unit.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for unpaid rent.

Although an agreement had been reached between the parties to end the tenancy early, the tenants did not provide the landlord with proper notice per section 45 of the *Act*. The tenants gave the landlord notice on January 8, 2011 which would have made the effective end date of the tenancy February 28, 2011 and not February 1, 2011. Therefore the \$1700.00 rent was due and payable for February 2011.

I do not find however that the landlord is entitled to a monetary order for damages as the landlord has not submitted any evidence regarding the damage nor has he submitted any receipts for repair of the damage. Therefore this portion of the landlord's claim is dismissed without leave to reapply.

Accordingly I find that the landlord is entitled to a monetary order for \$1700.00 in unpaid rent.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$1700.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the *Act* to keep the tenant's \$850.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$900.00**.

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: September 12, 2011.

Residential Tenancy Branch