

## **DECISION**

Dispute Codes      MNSD, MNDC and FF

### **Introduction**

This hearing was convened on the landlords' application for a monetary award for unpaid rent/loss of rent after the tenants breached the fixed term rental agreement by leaving the tenancy early. The landlords also sought to recover the costs of disposing of abandoned goods after the tenants left, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on November 8, 2011, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

### **Issue(s) to be Decided**

This matter requires a decision on whether the landlords are entitled to a monetary award for the claims submitted, recovery of the filing fee and authorization to retain the tenants' security deposit.

### **Background and Evidence**

The tenancy in question began on May 1, 2011 under a 12-month fixed term rental agreement set to end on April 30, 2012 with the option of continuing as a month to month tenancy thereafter. Rent was \$1,450 per month and the landlords hold a security deposit of \$725 paid on March 15, 2011.

During the hearing, the attending landlord gave evidence that the tenants had vacated the rental unit on October 28, 2011, six months before the end of tenancy date set by the fixed term agreement, after having advised her by telephone.

The landlord stated that she had been able to find a new tenant for November 1, 2011, but as it was a single occupancy for the month, she had to lower the rent to \$750 and requests the loss of \$700 from the tenants.

The landlord also submitted a claim for fuel use for return travel from the landlord's home city to that of the rental unit 90.05 km away and for 14.68 km round trip from the rental unit to dispose of goods left behind by the tenants.

### Analysis

Section 45 of the *Act* sets out the conditions pertaining to a tenant's notice to end tenancy and includes the provision that, in the case of a fixed term rental agreement, the tenants may give notice for a date that is, "is not earlier than the date specified in the tenancy agreement as the end of the tenancy."

Section 7 of the *Act* provides that if one party to a rental agreement suffers damages or a loss due to the others' non-compliance with the *Act* or rental agreement, then the non-compliant party must compensate the other for the loss, provided he claimant has taken reasonable steps to minimize the loss.

In the present matter, I find the fact that the landlords were able to find the single occupant tenant for November 2011 as ample evidence that the landlords acted to minimize the loss. Therefore, the clam for loss of \$700 rent is allowed in full.

As to the claim for travel from the landlord's home to the rental unit, the *Act* does not provide for such travel for an absentee landlord which is seen as a cost of doing business. However, the 14.68 km round trip @ 52 cents per km, \$7.63, to dispose of abandoned goods is allowed.

As the application has succeeded on its merits, I find that the landlords are entitled to recover the filing fee for this proceeding from the tenants.

I further find, pursuant to section 72 of the *Act*, that the landlords are entitled to retain the tenants' security deposit in set off against the balance owed.

Thus, I find that tenants owe to the landlords an amount calculated as follows:

Loss of rent for November 2011	\$700.00
Filing fee	<u>50.00</u>
Sub total	\$757.63
Less retained security deposit (No interest due)	- <u>725.00</u>
<b>TOTAL remaining owed to landlords</b>	<b>\$ 32.63</b>

### Conclusion

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order for \$32.63, enforceable through the Provincial Court of British Columbia, for service on the tenants if necessary.

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: January 25, 2012.

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Residential Tenancy Branch