



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD and FF

Introduction

This application was brought by the landlord on December 8, 2011 seeking a monetary award for unpaid rent and loss of rent, unpaid utilities, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

The landlord was represented by her husband and the tenant appeared on his own behalf.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to a monetary award for the claims for unpaid rent, loss off rent, unpaid utilities and filing fee, and authorization to retain the security deposit in set off against the balance owed. Claims for damage or loss under section require that the claimant shows that they have taken reasonable steps to minimize the loss.

Background, and Evidence

This tenancy began on September 1, 2009 and ended on or about November 30, 2011 after the tenant gave late notice on November 20, 2011. Rent was \$800 per month and the landlord holds a security deposit of \$400 paid on or about September 1, 2009.

The landlord was at something of a disadvantage in this matter having provided no documentary evidence in support of the claims submitted. However, the tenant corroborated much of the landlord's oral evidence on which this decision is based.

The landlord claims and I find as follows:

Rent shortfall for November 2011 - \$400. The tenant concurred that he had paid only \$400 of the rent due on November 1, 2011 and that he has an outstanding balance of \$400. This claim is allowed in full.

Loss of rent for December 2011 - \$800. The tenant concurred that he had not given notice until November 20, 2011 and vacated on November 30, 2011. However, section 7 of the *Act* which provides for a monetary award for damage or loss arising from a breach of the rental agreement or legislation also requires that a claimant do whatever is reasonable to minimize the loss. In the present matter, the landlord has provided no documentary evidence of advertising or other efforts to find a new tenant. Therefore, this claim is dismissed.

October hydro shortfall - \$5. The tenant concurred that he owed the landlord this amount and the claim is allowed.

November hydro - \$110.81. The tenant concurred that he has not yet paid the hydro for November 2011. He said the landlord's claim is in keeping with the normal amounts and did not contest the claim. Therefore, it is allowed in full.

December hydro - \$35. The landlord stated that, as the unit was not occupied in December 2011, and hydro consumption was therefore lowered. Having found that the landlord has not met the burden of proof with respect to the duty to minimize the loss of rent for December 2011, I cannot find the tenant responsible for the hydro for the month. This claim is dismissed.

Propane - \$319.23. The tenant concurred that the propane tank had been full at the beginning of the tenancy, that it was empty when he left, and that he knew it was his responsibility to leave it full. The tenant anticipated a greater cost than that claimed and the claim is allowed.

Filing fee - \$50. Having found merit in the application, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Security deposit – (\$400). As authorized under section 72 of the *Act*, I order that the landlord may retain the tenant's security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Rent shortfall for November 2011	\$400.00
November hydro	110.81
Refill propane tank	319.23
Filing fee	<u>50.00</u>
Sub total	\$885.04
Less retained security deposit (No interest due)	<u>- 400.00</u>
TOTAL	\$485.04

Conclusion

In addition to authorization to retain the tenant's security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$485.04 for service on the tenant.

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: February 20, 2012.

Residential Tenancy Branch