



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to 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 security deposit / and recovery of the filing fee. Both parties participated and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the year-long fixed term of tenancy is from July 1, 2011 to July 1, 2012. Monthly rent of \$687.50 is payable on the first day of each month for the initial 6 months of tenancy which are July, August, September, October, November and December 2011. Thereafter, pursuant to the tenancy agreement, monthly rent is \$825.00. A security deposit of \$412.50 was collected. A move-in condition inspection and report were completed.

The tenant vacated the unit on or about October 29, 2011, and a move-out condition inspection and report were completed on November 4, 2011. Despite on-going advertising, new tenants were not found for the unit until effective December 1, 2011.

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

Section 45 of the Act speaks to **Tenant's notice**, and provides in part:

45(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the documentary evidence and the testimony of the parties, the various aspects of the landlord's application and my findings around each are set out below.

\$687.50*: loss of rental income for November 2011. I find that the tenant's manner of ending the fixed term tenancy did not comply with the above statutory provisions, and that the landlord undertook to mitigate the loss of rental income by undertaking timely advertising for new renters. In summary, I find that the landlord has established entitlement to the full amount claimed.

\$150.00*: liquidated damages (early termination of lease). As the tenant ended the lease prior to the end date of the fixed term, and as the tenancy agreement provides for the related assessment of liquidated damages, I find that the landlord has established entitlement to the full amount claimed.

\$ 5.12: unpaid utilities. In the absence of any documentary evidence whatsoever in support of this aspect of the application, it is hereby dismissed.

\$50.00*: filing fee. As the landlord has succeeded with this application, I find that the landlord has established entitlement to recovery of the full amount claimed.

Cost of registered mail: Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated

with litigation to either party to a dispute. Accordingly, the landlord's request during the hearing to recover these particular costs is hereby dismissed.

Following from all of the above, I find that the landlord has established entitlement in the total amount of \$887.50 (\$687.50 + \$150.00 + \$50.00). I order that the landlord retain the security deposit of \$412.50, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$475.00 (\$887.50 - \$412.50).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$475.00**. Should it be necessary, this order may be served on the tenant, 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*.

Dated: February 07, 2012.

Residential Tenancy Branch