



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this application.

The Landlords said they served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on February 20, 2012. Based on the evidence of the Landlords, I find that the Tenant was served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

At the start of the conference call the Landlords said when they completed the application they forgot to request to keep the Tenant's security deposit for unpaid rent. The Landlord said they are now asking to include the Tenant's security deposit as part of their application. I accept the Landlords' request to amend the application to include the Tenant's security deposit as partial payment for unpaid rent.

As well the Landlords said the Tenant moved out on February 24, 2012 without any notice so their application for an Order of Possession is no longer needed. The Landlords said they are withdrawing their application for an Order of Possession.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Are the Landlords entitled to compensation for unpaid rent and if so how much?
3. Are the Landlords entitled to retain the Tenant's security deposit?

Background and Evidence

This tenancy started on September 1, 2010 as a month to month tenancy. Rent is \$995.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$497.50 on September 1, 2010. The Landlords said the Tenant has abandoned the rental unit as of February 24, 2012.

The Landlords said that the Tenant did not pay \$885.00 of rent for January, 2012 and \$995.00 of rent for February, 2012 when it was due and as a result, on February 13, 2012 the Landlords personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated February 13, 2012 to the Tenant at the rental unit. The Landlord continued to say that the Tenant also has unpaid rent for March 2012 of \$995.00, as the Tenant left the rental unit without giving proper notice and the Landlords were unable to rent the unit until April 1, 2012.

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.

The Tenant did not have the right under the Act to withhold part or all of the rent for January, 2012 in the amount of \$855.00 and for February, 2012 in the amount of \$995.00. In addition the Tenant did not give the Landlords proper notice to vacate the rental unit. Under section 45 of the Act, it says a Tenant must give the Landlords written notice the tenancy is ending one month prior to the day in the month the rent is normally due. As the Tenant abandoned the unit on February 24, 2012 with no notice I find the Landlords have established grounds to claim the March 2012, rent in the amount of \$995.00. I find for the Landlords for unpaid rent of \$1,850.00 for January and February, 2012 and for lost rental income for March, 2012 in the amount of \$995.00.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant 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 Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 1,850.00	
	Lost rental income	\$ 995.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 2,895.00
Less:	Security Deposit	\$ 497.50	
	Subtotal:		\$ 497.50
	Balance Owing		\$ 2,397.50



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Conclusion

A Monetary Order in the amount of \$2,397.50 has been issued to the Landlords. A copy of the Order must be served on the Tenant: 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*.

Dispute Resolution Officer