



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said his Property Manager served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery mail on January 9, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on July 1, 2011 as a month to month tenancy. Rent was \$950.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$475.00 on July 1, 2011. The Landlord said the Tenant moved out of the rental unit some time after the first week in December, 2011, without notice to the Landlord or the Property Manager.

The Landlord said that the Tenant did not pay \$950.00 of rent for September, 2011, \$75.00 of unpaid rent for October, 2011, \$350.00 of unpaid rent for November, 2011 and \$950.00 of unpaid rent for December, 2011. As well the Landlord said the September and November, 2011 rent payment cheques were returned NSF so the Landlord is requesting to recover the NSF charges of \$5.00 for each month of September and November, 2011.

The Landlord continued to say the Tenant left some personal property, but the Landlord believes it was mostly things the Tenant did not want as the property had little value. The Landlord did say the Tenant left a frig which the Landlord said he is storing at the rental unit for the Tenant.

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.

Section 45 of the Act says a Tenant may end a period tenancy by a notice that is in writing at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the unpaid rent for September, October, November and December, 2011 in the amount of \$2,325.00.

As well, I accept the Landlord's testimony and written evidence to recover the NSF charges for September and November, 2011 in the amount of \$10.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord 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:	\$ 2,325.00
	Recover NSF charges	\$ 10.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$2,385.00
Less:	Security Deposit	\$ 475.00
	Subtotal:	\$ 475.00
	Balance Owing	\$ 1,910.00

Conclusion

A Monetary Order in the amount of \$1,910.00 has been issued to the Landlord. 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*.

Residential Tenancy Branch