



Dispute Resolution Services

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Residential Tenancy Branch
Office Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MNR, MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act or tenancy agreement, to recover the filing fee for this proceeding and to keep the Tenant's security deposit and pet deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 15, 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.

At the start of the conference call the Landlord said the Tenant moved out of the rental unit on March 15, 2012 and as a result the Landlord said she is withdrawing her request for an order of possession as she has possession of the rental unit.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for unpaid rent and if so how much?
2. Are there damages or losses and if so how much?
3. Is the Landlord entitled to compensation for damage or loss and if so how much?
4. Is the Landlord entitled to keep the Tenant's security deposit and pet deposit?

Background and Evidence

This tenancy started on January 1, 2012 as a 6 month fixed term tenancy with an expiry date of June 30, 2012. Rent was \$850.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$425.00 on December 1, 2011 and the Tenant agreed to pay a pet deposit on February 1, 2012, but did not pay it.

The Landlord said that the Tenant did not pay \$850.00 of rent for March, 2012 when it was due and as a result, on March 7, 2012 she personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 7, 2012 to the Tenant. The Landlord said she has not rented the unit as of yet and does not believe she will be able

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to rent the unit for April, 2012; therefore the Landlord is requesting the April, 2012 rent of \$850.00 as the Tenant breached a fixed term tenancy agreement.

In addition the Landlord said the Tenant left the unit in an unclean state and she had to hire carpet cleaners and a cleaner to clean the walls because the Tenant smoked in the unit and the unit was a non smoking tenancy. The Landlord is requesting \$250.00 for cleaning costs.

The Landlord also sought to recover the \$50.00 filing fee for this proceeding.

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 fixed term tenancy not earlier than the date specified in the tenancy agreement and it must be with written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

I find that the Landlord is entitled to recover unpaid rent for February, 2012 in the amount of \$850.00. I further find that the Landlord is entitled to recover a loss of rental income for the month of April, 2012 in the amount of \$850.00. The Landlord is ordered to mitigate her damages under s. 7(2) of the Act by re-renting the rental unit as soon as possible.

As the Landlord has been successful in this matter, she 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:



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	Rent arrears:	\$850.00	
	Loss of Rental Income:	\$850.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$1,750.00
Less:	Security Deposit	\$425.00	
	Subtotal:		\$ 425.00
	Balance Owing		\$1,325.00

Conclusion

A Monetary Order in the amount of \$1,325.00 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*.

Dispute Resolution Officer