



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application filed by the landlord seeking a monetary order, an order to be allowed to retain the security deposit and recovery of the filing fee paid for this application.

All parties appeared at the hearing of this matter and gave evidence under oath.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord testified that she served a 10 day Notice to End Tenancy on the tenants on November 5, 2011 seeking rental arrears of \$1,000.00 with respect to September's rent. The landlord now agrees that she should have noted \$950.00 rental arrears owing on the Notice to End Tenancy, the rent due was \$1,450.00 per month. The landlord submits that the post-dated cheque for September's rent was returned NSF and the tenants paid her \$500.00 towards the NSF cheque leaving a balance owing of \$950.00. The landlord says the tenants paid full rent of \$1,450.00 for October still leaving a balance owing from September of \$950.00. The landlord says the tenants then paid \$1,300.00 towards November's rent and nothing for December's rent although they did vacate the rental unit without notice on or about November 19, 2011. Rental arrears including December 2011 are \$2,550.00.

The landlord says the tenants also failed to pay utilities which were not included in the rent. The landlord submitted the tenancy agreement along with a utility bill in the sum of \$241.29.

Further, the landlord says the tenants caused damage to the rental unit resulting in \$1,860.00 in repairs. The landlord submitted a list of charges for the repairs but not invoices.

The tenants say the rent is paid in full although they had no proof of payment. The tenants say the landlord did not provide receipts for rent payments. The tenants say that although they did pay their rent they did not dispute the 10 day Notice to End Tenancy for unpaid rent because they were out of town or did not have time or did not know the procedure.

The tenants agree there was some damage but the sums the landlord is seeking are excessive.

Analysis

With respect to the rental arrears I prefer the evidence of the landlord which I find to be consistent and well documented whereas the tenants have failed to produce sufficient evidence, such as cancelled cheques, to show that they did pay the rent in full. Further, I find that the tenants vacated without giving written notice as required by the Act. I therefore find that they must pay rent for the notice period (December 2011). I therefore find that the landlord is entitled to a monetary order for rental arrears calculated as follows:

Month	Rent Due	Rent Paid	Balance Owing
October 2011	1,450.00	1,450.00	950.00
November 2011	1,450.00	1,300.00	1,100.00
December	1,450.00	0.00	2,550.00

With respect to the claim for utilities, I find that the landlord has submitted sufficient evidence to show that the tenants were responsible for the utility payments but they did not pay the utilities. I will therefore allow the landlord's claim in this regard in the sum of \$241.29.

Finally, with respect to the landlord's claim for damages while the tenants have admitted there were damages the landlord has failed to supply sufficient evidence to demonstrate the cost of repairs. However, because the tenants admit that there were damages I will allow the landlord a nominal sum of \$100.00 in this regard.

The landlord holds a security deposit in the sum of \$725.00 and this will be applied to the sums awarded herein.

As the landlord has been mostly successful with her claim I will also allow her to recover the \$50.00 filing fee she has paid for this application.

Calculation of Total Monetary Award:

Rental Owing	\$2,550.00
Damages	100.00
Filing Fee	50.00
Less Security Deposit (no interest accrued)	-725.00
Balance Owing by Tenants to Landlord	\$2,216.29

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order enforceable as any Order of the Provincial 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*.

Dated: April 04, 2012.

Residential Tenancy Branch