



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession and a Monetary Order for unpaid rent, for compensation for loss or damage under the Act or tenancy agreement and to recover the filing fee for this proceeding.

At the start of the conference call the Landlords said the Tenants had moved out of the rental unit in the middle of April, 2012. As a result the Landlords said they are withdrawing their application for an Order of Possession as they have possession of the rental unit.

The Landlords said they served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on April 13, 2012. Based on the evidence of the Landlords, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

Issues(s) to be Decided

1. Are there rent and utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?

Background and Evidence

This tenancy started on July 1, 2011 as a 1 year fixed term tenancy with an expiry date of June 30, 2012. Rent was \$1,300.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$650.00 on May 30, 2011.

The Landlord said that the Tenant did not pay \$1,300.00 of rent for April, 2012 when it was due and as a result, on April 2, 2012 they posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 2, 2012 on the door of Tenants' rental unit. The Landlords said they are also requesting lost rental income for ½ of May, 2012 as the Tenants did not give proper notice to end the tenancy. The Landlord said they have rented the unit out for May 15, 2012.

The Landlords continued to say that the Tenants' did not pay the utility bills for March, 2012 in the amount of \$280.42 and for April, 2012 in the amount of \$246.40. The Landlords said they gave the Tenants a formal demand for payment of the utility bills on April 2, 2012 and they provided copies of the utility bills as evidence.

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 46 (6) of the Act says unpaid utilities can be charged as unpaid rent if the tenancy agreement requires utilities to be paid and the Landlord formally demands payment of the utilities. As the Landlords have formally demanded payment of the utilities and the Landlord has provided copies of the utility bills, I find the Landlord can include the unpaid utilities as unpaid rent.

The Tenants did not have the right under the Act to withhold part or all of the rent for April, 2012, therefore I find in favour of the Landlords for the unpaid rent of \$1,300.00 for April, 2012. As well I find the Landlord had a loss of rental income for May, 2012 because the Tenants ended the tenancy early and without proper notice. Consequently I award the Landlord $\frac{1}{2}$ a month's rent for May, 2012 in the amount of \$650.00.

Further I find the Landlord is entitled to recover the unpaid utility costs from the Tenants in the amount of \$526.82 as formal demand for payment was made to the Tenants and the utility bills were provided in the evidence.

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. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears: (April, 2012)	\$1,300.00	
Loss of Rental income May, 2012	\$ 650.00	
Unpaid utilities	\$ 526.82	
Recover filing fee	\$ 50.00	
Subtotal:		\$2,526.82
Balance Owing		\$ 2,526.82



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Conclusion

A Monetary Order in the amount of \$2,526.82 has been issued to the Landlord. A copy of the Orders 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