



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD and FF

This application was brought by the landlord on April 24, 2012 seeking a monetary award for unpaid rent, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balanced owed.

Despite having been served with the Notice of Hearing sent by registered mail on April 24, 2012, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, the hearing proceeded in their absence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order as requested and authorization to retain the security deposit in deposit in set off.

Background, Evidence and Analysis

This tenancy on December 1, 2012 under a one-year fixed term rental agreement set to end on November 30, 2012. Rent was \$1,700 per month and the landlord holds a security deposit of \$850 paid on November 16, 2011.

During the hearing, the landlord submitted into evidence a copy of an email dated March 23, 2012 advising that the tenants would be leaving the tenancy on March 31, 2012, ten days later.

The landlord replied, reminding the tenants of their obligations and options in breaking a fixed term agreement and directed them to the branch for further guidance.

The tenants did vacate at the end of March 2012 leaving the rental unit with some damage and in need of cleaning in order to prepare it for new tenants who the landlord stated took possession on May 1, 2012.

Consequently, the landlord claims and I find as follows:

Rent for April 2012 - \$1,700. Section 45 of the Act provides that tenant's may end a fixed term rental agreement by giving notice for a date that is not earlier than the end date set by the agreement which was November 30, 2012 in the present matter. Notice to end a month to month tenancy must be served on a day before the next rent due date, to take effect at the end of that rental period. Therefore, as the tenants gave only ten days notice, giving insufficient time and leaving the rental unit in a state that did not allow for immediate possession, I find that they owe the rent for April 2012. This claim is allowed in full.

General cleaning - \$200. This claim is supported by a receipt and it is allowed in full.

Painting and patching - \$175. This claim is supported by a receipt and photographic evidence of a substantial hole in the wall. It is allowed in full.

Filing fee - \$50. As the application has succeeded on its merits, I find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenants.

Security deposit – (\$850). The landlord made application within 15 days of the end of the tenancy as section 38(1) of the *Act* requires. As authorized by section 72(2)(b) of the *Act*, I order that the landlord retain the security deposit in set off against the balance owed.

Thus, I find that the tenants owe to the landlord an amount calculated as follows:

Rent April 2012	\$1,700.00
Paint and patch	175.00
Filing fee	<u>50.00</u>
Sub total	\$2,125.00
Less retained security deposit (No interest due).	<u>- 850.00</u>
TOTAL	\$1,275.00

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order for **\$1,275.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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: June 20, 2012.

Residential Tenancy Branch