



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MND; MNSD; FF

Introduction

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and damages; to retain the security deposit in partial satisfaction of their monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlords gave affirmed testimony at the Hearing.

The Landlords testified that the Notice of Hearing documents and evidence package were mailed to the Tenants on May 8, 2012, via registered mail, to their forwarding address. The Landlords provided the tracking confirmation which indicates that the Tenants received the documents on May 10, 2012

Based on the Landlords' affirmed testimony and documentary evidence, I am satisfied that the Tenants were served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

Preliminary Matter

At the outset of the Hearing, it was determined that the Tenants moved out of the rental unit on or about March 20, 2012, and that the Landlords have taken back possession of the rental unit. Therefore the Landlords' application for an Order of Possession is dismissed as it is no longer required.

The Landlords noted on their application that they were seeking a monetary award for \$378.00 in damages, but did not tick the box "for damage to the unit, site or property". However, it is clear from the "details of dispute" section of their Application and the documentary evidence that they seek a monetary award for damages. Therefore, I amended their application to include that claim.

An additional claim in the amount of \$471.63 for damage that the Tenants allegedly did to their neighbour's gutter and downpipe was not considered. This claim was not contained in their Application for Dispute Resolution and was not damage that occurred under the Act or tenancy agreement.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent for the months of January and February, 2012, and for damage to the rental unit?

Background and Evidence

The Landlords gave the following testimony and evidence:

A copy of the tenancy agreement was provided in evidence. This tenancy started on October 15, 2011. The tenancy agreement is a fixed term lease, ending October 12, 2012. Monthly rent was \$1,050.00 per month, due the fifteenth day of each month. The Tenants paid a security deposit in the amount of \$525.00 on September 25, 2011.

The Landlords testified that the Tenants were unable to pay rent due to job loss and medical issues. On March 6, 2012, the Landlords served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, a copy of which was provided in evidence. The Tenants paid only \$150.00 towards rent on January 15, 2012, and no rent thereafter. The Landlords seek a monetary award in the amount of **\$1,950.00** for unpaid rent.

The Landlords testified that they were able to re-rent the rental unit one week after the Tenants moved out. The Landlords stated that they are not seeking loss of revenue from March 15, 2012 until the rental unit was re-rented.

The Landlords testified that the Tenants promised to come back to the rental unit to clean and take the garbage away, but that they did not do so. They stated that the Tenants left 6 bags of garbage and some recycling at the rental unit; damaged a metal door by drilling holes into it; damaged some drywall that required filler and repainting; and damaged a handle to the storage shed. They stated that the Tenants also borrowed a toilet plunger that they did not return.

The Landlords stated that the parties agreed that December's rent would be reduced to \$825.00 and that in consideration for paying less rent for December, the parties agreed that the Tenants would leave their HD cable vision box in the rental unit when the tenancy ended. The Landlords testified that the Tenants did not leave the cable vision box at the end of the tenancy and therefore they seek to recover the value of the cable box.

The Landlords testified that they repaired the door and walls themselves and seek the following compensation for their labour and materials:

Fill holes and paint metal door	\$50.00
Repair drywall damage and paint drywall	\$50.00

Damaged storage shed	\$40.00
Replace toilet plunger	\$15.00
Replace HD cable vision box	<u>\$223.00</u>
TOTAL DAMAGE CLAIM	\$378.00

Analysis

Based on the undisputed affirmed testimony of the Landlords, and the documentary evidence provided, I find that the Tenants owe the Landlords \$1,950.00 in unpaid rent that was due on January 15, 2012, and February 15, 2012. I further find that the Landlords uncontested claims for damages in the amount of \$378.00 are reasonable. Therefore, I find that the Landlords have established a monetary award in the total amount of **\$2,328.00**.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary claim. No interest has accrued on the security deposit.

The Landlords has been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenants.

I hereby provide the Landlords a Monetary Order against the Tenants, calculated as follows:

Unpaid rent	\$1,950.00
Damages	\$378.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,378.00
Less security deposit	<u>- \$525.00</u>
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$1,853.00

Conclusion

I hereby provide the Landlords a Monetary Order in the amount of \$1,853.00 for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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 05, 2012.

Residential Tenancy Branch