



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by personal delivery mail on December 18, 2010. Based on the evidence of the Landlords' agent, I find that the Tenant was served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on July 1, 2012 as a fixed term tenancy with an expiry date of January 31, 2012. Rent was \$600.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$300.00 on June 6, 2012. The Landlord said the Tenant moved out of the rental unit on September 10, 2012, which was before the end of the fixed term in the tenancy agreement.

The Landlord said that the Tenant did not pay \$600.00 of rent for September, 2012. The Landlord said he is requesting the compensation for the September, 2012 rent of \$600.00 as the Tenant had use of the unit in September and the Tenant broke the fixed term tenancy agreement by moving out before the end of the term agreed to.

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.

The Tenant did not give the Landlord proper notice to end the tenancy and the Tenant did not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent of \$600.00 for the month of September, 2012.

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

	Rent arrears:	\$ 600.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 650.00
Less:	Security Deposit	\$ 300.00	
	Subtotal:		\$ 300.00
	Balance Owing		\$ 350.00

Conclusion

A Monetary Order in the amount of \$350.00 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*.

Residential Tenancy Branch