



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD and FF

Introduction

This hearing was convened on an application by the landlords made on October 8, 2012 seeking a monetary award for unpaid rent after the tenant left the fixed-term agreement without notice following a water intrusion into the rental unit.

Issue(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent or loss of rent and authorization to retain the tenant's security deposit in set off?

Background and Evidence

This tenancy began on February 1, 2012. Rent was \$900 per month and the landlords hold a security deposit of \$450 paid on January 9, 2012.

During the hearing, the parties concurred that the rental unit had suffered a water intrusion due to defect in the toilet in the unit above in the early morning hours of May 4, 2012.

According to the tenant, she left the rental unit that day on the advice of the strata manager as the restoration company would be placing drying heaters in the rental unit and would be doing restoration work as evidenced by photographs of areas of drywall removed from the ceiling and walls.

The tenant stated that she had advised the landlords verbally that she was leaving the tenancy, but she did not give written notice to do so and her furnishings remained in the rental unit until May 24, 2012.

The landlords stated that they began to advertise the rental unit on Craigslist on May 30, 2012, although they have submitted no documentary evidence of this effort to minimize their loss. They were able to find new tenants for July 1, 2012. The restoration work was not fully completed until July 3, 2012.

The landlords had submitted into evidence a copy of a letter from the restoration company stating that the rental unit had been habitable at all times, but the parties had received conflicting advice from their individual insurers and that of the strata corporation, though no documentary evidence had been submitted from them.

Matters were further complicated by the fact that the tenant had made application for return of all or part of her rent for May 2012 and return of her security deposit, but she had not provided the landlords with her forwarding address in writing.

However, that application appears to have been deemed abandoned in error as the landlords acknowledge having received the Notice of Hearing. Therefore the tenant would still be in a position to make application again for the loss of use of the rental unit.

On considering all of these factors, the parties availed themselves of the opportunity to come to a settlement provided by section 63 of the *Act* and crafted the following agreement:

Settlement Agreement

1. The landlords agree to return \$300 of the \$450 security deposit and the tenant agrees that the landlords may retain the remaining \$150.
2. The parties agree that this constitutes full and final settlement of this tenancy and neither will bring a further application against the other.

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for service on the landlords if necessary.

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: January 02, 2013.

Residential Tenancy Branch