



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on February 21, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s 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. Are there damages to the unit and if so how much?
4. Is the Landlord entitled to compensation for the damage and if so how much?
5. Are there other losses or damages and is the Landlord entitled to compensation?
6. Is the Landlord entitled to compensation for loss or damage and if so how much?

Background and Evidence

This tenancy started on October 1, 2012 as a fixed term tenancy, but the tenancy agreement was not signed so the tenancy became a month to month verbal agreement. Rent was \$1,300.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit. The Landlord said she hired a bailiff to enforce an Order of Possession on the Tenant on February, 15, 2013.

The Landlord said that the Tenant did not pay rent of \$1,300.00 for February, 2013. As well the Landlord said because of the poor condition of the upper rental unit the Landlord said she was unable to rent the lower rental unit so the Landlord is requesting \$700.00 rent for the lower unit for February, 2013.

Further the Landlord said she has included the utility bills the Tenant did not pay, and dump fees for hauling garbage the Tenant left in the rental unit. The utility bills are for gas of \$206.87, hydro of \$429.90 and the dump charges total \$47.50.

The Landlord also requested to recover the filing fee for this proceeding of \$50.00 from the Tenant.

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.

As the Tenant occupied the rental unit during the month of February, 2013 the Tenant is responsible for the February, 2013 rent. The Tenant does not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the unpaid rent for February, 2013 in the amount of \$1,300.00. With respect to the Landlord's claim for the lower unit rent of \$700.00 this unit is not part of the tenancy in this application therefore I dismiss the Landlord's claim for rent of \$700.00 for February, 2013 for the lower unit in the rental complex.

For a monetary claim for damage or loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord proved the loss existed and she verified the losses by providing receipts for the claims that the Landlord has made. I accept the Landlord testimony that these damages and losses were caused by the Tenant. I award the Landlord the utility costs of \$206.87 for gas, \$429.90 for hydro and \$47.50 for dump charges.

As the Landlord has been successful in this matter, the Landlord is 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:	\$ 1,300.00	
Utilities	\$ 636.77	
Dump charges	\$ 47.50	
Recover filing fee	\$ 50.00	
Subtotal:		\$2,034.27
Balance Owing		\$2,034.27

Conclusion

A Monetary Order in the amount of \$2,034.27 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*.

Dated: May 15, 2013

Residential Tenancy Branch

