



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, 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, 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 registered mail on April 2, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' 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 there a loss or damage and if so how much?
4. Is the Landlord entitled to compensation for the loss or damage and if so how much?
5. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

The Landlord said the Tenants moved in early on December 19, 2012 and the tenancy agreement started on January 1, 2013 as a fixed term tenancy with an expiry date of January 1, 2014. Rent was \$850.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$425.00 on December 19, 2012. The Landlord said the Tenants moved out of the rental unit on March 13, 2013 as a result of a 10 Day Notice to End Tenancy for unpaid rent. The Landlord said a move in condition inspection was completed and signed on December 19, 2012 and a move out inspection was completed on March 13, 2013.

The Landlord said that the Tenants did not pay \$850.00 of rent for March, 2013. The Landlord said she issued a 10 Day Notice to End Tenancy dated March 2, 2013, which is in the Landlord's hearing package.

Further the Landlord said the unit was freshly painted and in excellent condition when the Tenants moved in and as the move out condition inspection report shows the unit was damaged and dirty on move out. The Landlord said they spent 25 hours cleaning and painting the unit after the Tenants moved out. The Landlord said they have charged \$15.00 per hour for a total of \$375.00 in labour costs for cleaning and painting.

The Landlord continued to say that she is also claiming carpet cleaning as the tenancy agreement states the carpets are to be professionally cleaned at the end of the tenancy, but the Tenants did not clean the carpets. The Landlord said she submitted the carpet cleaning receipt with his evidence package in the amount of \$141.00.

In addition the Landlord said she is also claiming for a new toilet seat as the Tenants broke the original seat for an amount of \$24.07, paint costs of \$39.12 and for the repair of a broken window in the amount of \$22.40. The Landlord said all her claims have been completed, paid for and the receipts are in the evidence package.

The Landlord also requested to recover the \$50.00 filing fee for his application.

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 Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the rent of \$850.00 for March 2013.

For a monetary claim for damage of 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 has provided receipts for her claim of carpet cleaning in the amount of \$141.00, the new toilet seat in the amount of \$24.27, the paint in the amount of \$39.12, the window repair for \$22.40 and has itemized and justified the Landlord's labour claim of \$375.00. Consequently I accept the Landlord's evidence and claims and I award the Landlord \$601.79 in damages.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenants 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 Tenants' security deposit and pet deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 850.00	
	Damages	\$ 601.79	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$1,501.79
Less:	Security Deposit	\$ 425.00	
	Subtotal:		\$ 425.00
	Balance Owing		\$ 1,076.79

Conclusion

A Monetary Order in the amount of \$1,076.79 has been issued to the Landlord. A copy of the Order must be served on the Tenants: 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: June 24, 2013

Residential Tenancy Branch

