



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, 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 personal delivery on April 24, 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 with both parties in attendance.

Issues(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Are there losses or damages and is the Landlord entitled to compensation?

Background and Evidence

This tenancy started on January 1, 2011 as a fixed term tenancy with an expiry date of December 31, 2011 and then the tenancy continued on a month to month basis. Rent was \$850.00 per month payable in advance of the 15th day of each month. The Tenant did not pay a security deposit. The Tenant said she moved out of the rental unit a few days before December 15, 2012. The Tenant said she told the Landlord on November 15, 2012 that she was moving out of the rental unit on December 15, 2013. The Landlord said the Tenant told her on November 28 or 29, 2012 that she was moving out of the rental unit on December 15, 2012. The Landlord said the Tenant did not give her written notice that the Tenant was moving out.

The Landlord said because the Tenant did not give her proper written Notice that the Tenant was moving out of the rental unit the Landlord was unable to rent the unit prior to January 1, 2013 and therefore the Landlord lost ½ a month’s rent from December 15,

2012 to January 1, 2013. The Landlord said the Tenant should be responsible for the rent from December 15, 2012 to January 1, 2013 in the amount of \$425.00.

As well the Landlord said the Tenant left the unit in an unclean state and the Landlord said she is claiming \$15.00 in gas and \$19.00 in dump fees to haul the Tenant's garbage and debris to the dump. The Landlord said she has included paid receipts for these costs in her evidence package.

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

The Tenant said she did not give the Landlord a written notice to end the tenancy. The Tenant said the rental unit was very unclean when she moved in and the Landlord did not give her rent receipts so the Landlord cannot prove she did not pay the rent. The Tenant continued to say she moved out before December 15, 2012 so she is not responsible for the rent from December 15, 2012 to January 1, 2013 in the amount of \$425.00.

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 periodic tenancy not earlier than the one month from the normal rent payment date specified in the tenancy agreement and it must be with a written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenant does not have the right under the Act to withhold part or all of the rent and the Tenant did not give the Landlord proper written notice to end the tenancy; therefore I find the Tenant is responsible for the unpaid rent from December 15, 2012 to January 1, 2013 in the amount of \$425.00.

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 has proven the loss existed and she verified the losses by providing receipts for the claims that the Landlord has made. I accept the Landlord's testimony that these damages and losses were caused by the Tenant and the costs were reasonable amounts to haul garbage and debris to the dump. Consequently, I find the Landlord has established grounds to be awarded the costs for fuel of \$15.00 and the

cost of dump fees of \$19.00. I award the Landlord a total of \$34.00 for damages and losses.

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:	\$ 425.00
Fuel and dump fees	\$ 34.00
Recover filing fee	\$ 50.00
Subtotal:	\$509.00
Balance Owing	\$ 509.00

Conclusion

A Monetary Order in the amount of \$509.00 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*.

Dated: July 16, 2013

Residential Tenancy Branch

