



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlords' application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, for authorization to keep all or part of the security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The landlords attended the teleconference hearing. During the hearing the landlords were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The landlords testified that the Notice of Hearing was served on the tenants by separate registered mail packages to each tenant on July 10, 2013. The landlords provided registered mail receipt with tracking numbers as evidence and confirmed that the names and address matched the names of the tenants and the address of the rental unit where the tenants were residing at the time the landlords mailed the two registered mail packages, one for each tenant, which also contained the landlords' evidence. Documents sent by registered mail are deemed served five days after mailing under the *Act*. The landlords stated that the registered mail packages were returned to them as "unclaimed". I find the tenants were deemed served on the fifth day after mailing, in accordance with the *Act*, which would be July 15, 2013. I note that refusal of a registered mail package does not constitute grounds for a review.

Preliminary and Procedural Matters

At the outset of the hearing, the landlords testified that the tenants vacated the rental unit on July 31, 2013, since filing their application. As a result, the tenants requested to

withdraw their request for an order of possession as the tenants had already given up possession of the rental unit by vacating on July 31, 2013.

During the hearing, the landlords withdrew their request for August 2013 rent. As a result, I have not considered rent for August 2013 in my Decision.

Issues to be Decided

- Are the landlords entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit under the *Act*?

Background and Evidence

A verbal, month to month tenancy agreement between the parties began on May 1, 2009 and ended on July 31, 2013 when the tenants vacated the rental unit. Monthly rent in the amount \$750.00 was due on the first day of each month during the tenancy. The tenants paid a \$375.00 security deposit at the start of the tenancy which the landlords continue to hold. The landlords applied for dispute resolution on July 9, 2013, after they issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on the tenants dated July 2, 2013, with an effective vacancy date of July 15, 2013.

The landlords are seeking a monetary order in the amount of \$3,050.00 comprised of the following:

Item Description	Amount
1. Unpaid portion of rent for December 2012	\$550.00
2. Unpaid portion of rent for February 2013	\$250.00
3. Unpaid rent for April 2013	\$750.00
4. Unpaid rent for June 2013	\$750.00
5. Unpaid rent for July 2013	\$750.00
TOTAL MONETARY CLAIM	\$3,050.00

The landlords provided undisputed testimony confirming the amounts described in the table above. The landlords testified that the tenants vacated the rental unit on July 31, 2013 and have not provided their written forwarding address. The landlords requested to retain the tenants \$375.00 security deposit towards the unpaid rent owed and are seeking a monetary order for the balance owed, plus their filing fee.

The landlords submitted in evidence copies of registered mail receipts, correspondence, three 10 Day Notices, proof of service documents, and written notice from the tenants that they would be vacating on July 31, 2013, which the landlords testified was received on July 13, 2013.

Analysis

Based on the undisputed testimony of the landlords, and on the balance of probabilities, I find the following.

Monetary claim of landlords – The landlords testified that the tenants failed to pay \$550.00 in rent for December 2012, \$250.00 in rent for February 2013, \$750.00 in rent for April 2013, \$750.00 in rent for June 2013, and \$750.00 in rent for July 2013. Pursuant to section 26 of the *Act*, tenants must pay rent when it is due in accordance with the tenancy agreement.

Based on the above, **I find** the tenants breached section 26 of the *Act* by failing to pay a total of \$3,050.00 in rent, as claimed by the landlords. Therefore, **I find** the landlords have met the burden of proof and **I grant** the landlords **\$3,050.00** in unpaid rent.

As the landlords' application had merit, **I grant** the landlords the recovery of the **\$50.00** filing fee.

Monetary Order – I find that the landlord has established a total monetary claim of \$3,100.00 comprised of \$3,050.00 in unpaid rent, plus the \$50.00 filing fee. I find this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenants' security deposit, which the landlords continue to hold, in the amount of \$375.00, which has accrued \$0.00 in interest to date. **I authorize** the landlords to retain the tenants' full security deposit of \$375.00 in partial satisfaction of the landlords' monetary claim, and **I grant** the landlords a monetary order pursuant to section 67 of the *Act* for the balance owing by the tenants to the landlords in the amount of **\$2,725.00**. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

I find that the landlords have established a total monetary claim of \$3,100.00 as indicated above. I authorize the landlords to retain the tenants' full security deposit of \$375.00 in partial satisfaction of the claim, and I grant the landlords a monetary order

under section 67 for the balance due of \$2,725.00. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: August 16, 2013

Residential Tenancy Branch

