



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNC and FF

Introduction

By application of May 10, 2013 the landlords sought a monetary award for unpaid rent/loss of rent, unpaid utilities and recovery of the filing fee for this proceeding after the tenant ended the tenancy on short notice.

Despite having been served with the Notice of Hearing sent by registered mail on May 13, 2013, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

Are the landlords entitled to a monetary claim as requested and in what amount?

Background and Evidence

This tenancy began on November 1, 2012 under a fixed term rental agreement set to end on May 1, 2013, then defaulting to a month to month tenancy. Rent was \$1,000 per month and the landlords hold a security deposit of \$500 paid at the beginning of the tenancy.

As a matter of note, this was a co-tenancy which the co-tenant left at the end of February 2013.

During the hearing, the landlords submitted into evidence a copy of the tenant's notice to end the tenancy. The letter was dated April 9, 2013 and had an effect end date of May 1, 2013 by which time the tenant vacated.

The landlords submitted a copy of an advertisement which they listed on Craigslist immediately on receiving the tenant's notice, but they were unable to find new tenants for May 2013.

The landlords also submitted into evidence copies of electrical bills for which the tenant was 50 percent responsible under the rental agreement. They submitted a demand letter to the tenant dated April 16, 2013 requesting payment of \$268.53 for the period to March 18, 2013 and gave notice that the balance to April 30, 2013 would be forwarded for payment when it became available. The landlords gave evidence that the tenant's share of the additional billing came to \$62.43 for a total of \$330.96.

Analysis

The standard form rental agreement used by the parties provides options for month to month or fixed term tenancies. The fixed term portion provides a further option in which the parties elect for the tenancy to default to a month to month tenancy at the end of the fixed term, or requires the tenants to vacate. Selection of that option requires the parties to initial and constitutes an agreement to end the tenancy.

In the present matter, as the parties selected the option under which the tenancy defaulted to month to month, the tenant was required under section 45 of the *Act* to give notice of at least one full month, to be served on a day before the last rent due date. In brief, the notice served on April 9, 2013 could not have taken effect until May 31, 2013.

Section 7 of the *Act* provides that if one party to a rental agreement suffers a loss due to the non-compliance with the agreement or legislation, then the non-compliant party must compensation the other for that loss. Section 7 also imposes a duty on the claimant to do whatever is reasonable to minimize their loss and I find that the landlords met that duty by immediately advertising for new tenants on receipt of the notice.

Therefore, I find that the tenant is responsible for the rent for May 2013.

I further accept the evidence of the landlords that the tenant's share of the hydro bill remains outstanding and award the amount claimed.

As the application has succeeded on its merits I find that the landlords are entitled to recover the filing fee for this proceeding from the tenant. Finally, as empowered under section 72 of the *Act*, I hereby authorize and order that the landlords retain the security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlords an amount calculated as follows:

Rent/loss of rent for May 2013	\$1,000.00
Hydro to March 18, 2013	268.53
Additional hydro to April 30k, 2013	62.43
Filing fee	<u>50.00</u>
Sub total	\$1,380.96
Less retained security deposit	<u>- 500.00</u>
TOTAL	\$ 880.96

Conclusion

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$880.96 for service on the tenant.

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: August 08, 2013

Residential Tenancy Branch

