



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord said they served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 16, 2013. Based on the evidence of the Landlords, 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.

At the start of the conference call the Landlord said the Tenants move out of the rental unit approximately 1 week ago with no notice to the Landlord. As a result the Landlord said he has possession of the unit and is withdrawing the request for an Order of Possession.

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 the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on April 15, 2013 as a 1 year fixed term tenancy with an expiry date of March 15, 2014. Rent is \$1,500.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$750.00 on March 22, 2013.

The Landlord said that the Tenants did not pay \$1,500.00 of rent for June, 2013 when it was due and as a result, on July 2, 2013 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated July 2, 2013 on the door of the Tenants' rental unit. The Landlord said the Tenants have unpaid rent for July, 2013 in the amount of \$1,500.00 and for August, 2013 in the amount of \$1,500.00.

The Landlord also requested to retain the Tenants' security deposit of \$750.00 as partial payment of the unpaid rent and to recover the \$50.00 filing fee for this proceeding.

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.

The Tenants did not have the right under the Act to withhold part or all of the rent for June, July or August, 2013, therefore I find in favour of the Landlords for the unpaid rent of \$1,500.00 for each month of June, July and August, 2013 for a total of unpaid rent in the amount of \$4,500.00.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$4,500.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$4,550.00
Less:	Security Deposit	\$ 750.00	
	Subtotal:		\$ 750.00
	Balance Owing		\$3,800.00

Conclusion

A Monetary Order in the amount of \$3,800.00 has been issued to the Landlords. 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: August 20, 2013

Residential Tenancy Branch