



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenants each called in and participated in the hearing. The landlord did not call in and did not participate although she was served with the application and Notice of Hearing sent by registered mail on September 7, 2013. The Canada Post records show that delivery of the registered mail was attempted and Notices were left for the landlord advising her where the mail could be picked up, but the landlord did not pick up the registered mail and it was eventually returned to the tenant on October 4, 2013. Failure to pick up documents sent by registered mail does not constitute a valid excuse for failure to attend a hearing. Pursuant to section 90 of the *Residential Tenancy Act* the landlord is deemed to have received the registered mail five days after it was sent.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Vancouver. The tenancy began in September, 2012. Monthly rent is \$1,600.00 and the tenants paid a security deposit of \$800.00. There was an earlier tenancy of the unit that began in June, 2012, but when one of the three tenants moved out the landlord entered into a new tenancy agreement in September with the two remaining tenants.

The tenants testified that on June 10, 2013 after prolonged rains water began leaking into the kitchen area of the rental unit. The flooding was serious and it was determined that the water was coming from outside the unit and leaking through cracks in the perimeter walls. The tenants were forced to move out of the rental unit and find other

accommodation. The tenants each moved in with friends and had to pay sums of money for rent for June. The tenants were unable to move back into the rental unit until August. They testified that extensive repairs and renovations had to be done to the rental unit to deal with the leaks and an extreme mould problem in the rental unit. The tenants testified that the renovation contractors did not leave the unit cleaned and the tenants had to hire a cleaner to clean up dust and debris from the construction. The tenants did not pay any rent for July. In this application, the tenant, applying on behalf of himself and his co-tenant, has claimed the following amounts from the landlord:

• Half month rent (June)	\$800.00
• Cleaning:	\$103.95
• Cable (Half month June and July)	\$156.00
• Extra rent expense (cost to stay at another place for June)	\$375.00
• Extra rent expense (cost to stay at another place for June)	\$425.00
• Food for half month of June (2 roommates)	\$560.00
 Total:	 \$2,419.95

Each of the tenants testified that they incurred additional expense in June to stay elsewhere. The cable charges were claimed because they paid for cable services for June and July but were unable to access them. The tenants testified that their ordinary food costs would likely amount to \$200.00 each for a two week period.

Analysis

I find that the tenants are entitled to compensation for the period in June when they paid rent, but were prevented from occupying the rental unit, however, to award the tenants a partial refund of rent for June as well as amounts spent for accommodation elsewhere would result in giving the tenants a double recovery. The landlord has not charged rent for July and the tenants have returned to the rental unit and paid rent for August. I find that the tenants are entitled to the following amounts as compensation for the loss of use of the rental unit for the period when they were prevented from using the unit as a result of the water leaks and restoration work:

• Rent for a half month for June	\$800.00
• Necessary cleaning after renovations were completed:	\$103.95
• Cable expenses incurred when the tenants were absent	\$156.00
• Increased food costs for June	\$160.00

Total:

\$1,219.95

Conclusion

I grant the tenant a monetary award in the amount stated. The tenant is entitled to recover the \$50.00 filing for a total award in the amount of \$1,269.95 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims court and enforced as an order of that court. The order may be satisfied without registration and without commencing any enforcement proceedings by deducting the sum awarded from a future instalment of rent due to the landlord.

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: October 10, 2013

Residential Tenancy Branch

