



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and utilities, for compensation for loss or damage under the Act, regulations or tenancy agreement, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on January 4, 2014. 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 in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent and or utility arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and or utilities and if so how much?
4. Is there a loss or damage and if so how much?
5. Is the Landlord entitled to compensation for a loss or damage and if so how much?
6. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on October 1, 2013 as a month to month tenancy. Rent was \$850.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$425.00 on October 1, 2013.

The Landlord said the tenancy ended on December 31, 2013 as a result of a 10 Day Notice to End Tenancy for unpaid rent and utilities dated December 21, 2013.

The Landlord continued to say that the Tenant did not pay \$850.00 of rent for December, 2013, and \$192.32 of Utility bills over the tenancy when it was due and as a result, on December 21, 2013 she personally delivered and she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated December 21, 2013 on the door of the Tenant's rental unit. The Landlord said her application also claims rent for January, 2014, but as the Tenant moved out on December 31, 2013 she is not pursuing the January, 2014 rent of \$850.00.

The Landlord continued to say that as she does have possession of the rental unit she is withdrawing the application for an Order of Possession.

In addition the Landlord requested to recover from the Tenant the \$50.00 filing fee for this proceeding.

Analysis

Section 26 (1) of the Act 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 46 (6) of the Act says unpaid utilities are treated as unpaid rent if the Landlord has formally demanded payment of unpaid utilities.

I find that the Tenant has not paid the overdue rent or utilities and has not applied for dispute resolution and does not have the right to with hold part or all of the unpaid rent or utilities. Consequently, I find pursuant to s. 67 of the Act that the Landlord is entitled to a Monetary Order. The Landlord is entitled to recover unpaid rent for December, 2013 in the amount of \$850.00 and the unpaid utilities in the amount of \$192.32.

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

	Rent arrears:	\$ 850.00	
	Unpaid Utilities	\$ 192.32	
	Recover filing fee	<u>\$ 50.00</u>	
	Subtotal:		\$1,092.32
Less:	Security Deposit	<u>\$ 425.00</u>	
	Subtotal:		\$ 425.00
	Balance Owing		\$ 667.32

Conclusion

A Monetary Order in the amount of \$667.32 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: February 18, 2014

Residential Tenancy Branch

