



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNDC MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 29, 2013, by the Landlord to obtain a Monetary Order for: damage to the unit, site or property; money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; for unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee from the Tenants for this application.

The Landlord submitted evidence which indicates each Tenant was served with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on December 3, 2013, by registered mail. Canada Post tracking information was provided in the Landlord's evidence. Based on the submissions of the Landlord I find each Tenant is deemed served notice of this proceeding on December 08, 2013, five days after it was mailed, in accordance with section 90 of the Act; and I proceeded in absence of the Tenants.

Issue(s) to be Decided

Has the Landlord proven entitlement to a Monetary Order, pursuant to sections 67 and 7 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord submitted evidence that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on March 1, 2013 and was set to expire on February 28, 2014. In addition to the tenancy agreement, the Tenants also signed a "*Statement of Understanding of Section 4 (B) and (D) of the Tenancy Agreement*" which speaks to breaking the lease and liquidated damages. The Tenants were required to pay rent of \$1,000.00 on the first of each month and on February 15, 2013 the Tenants paid \$500.00 as the security deposit.

The Landlord testified that on June 27, 2013, one of the Tenants told the on-site caretaker that they were moving out on the following Sunday (June 30, 2013). The Landlord contacted the Tenants and requested that they provide at least 30 days notice.

The Landlord stated that after several conversations through e-mails, discussing what was required for cleaning, A.C. requested that the Landlord arrange to have the carpets cleaned and they would pay for the cleaning.

The parties met on July 27, 2013, to conduct the move out inspection. The parties met later to discuss the outstanding amounts due to the Landlord; and on August 22, 2013, each Tenant signed an agreement to pay the Landlord for the following:

\$1,000.00	July 2013 Rent
\$ 500.00	Liquidated Damages
\$ 25.00	Late payment fee for July 2013 rent
<u>\$ 149.00</u>	Carpet Cleaning (as per the invoice provided in evidence)
\$1,674.00	TOTAL

The Tenants provided their forwarding address as listed on the August 22, 2013, agreement to repay and began to make payments towards the debt.

The Landlord pointed to section #10 of the tenancy agreement which provides for a \$25.00 late payment fee, to support the amount claimed. The Landlord submitted a tenant ledger which records 5 payments of \$50.00 each made by the Tenants towards the above debt and were paid between August 12, 2013 and September 18, 2013. The Landlord testified that the payments have stopped so they are seeking a monetary order for the balance owing of \$1,424.00 plus the filing fee.

The Landlord confirmed that they advertised the unit right away and were able to re-rent it effective August 1, 2013.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

Upon review of the tenant ledger provided by the Landlord, I note that there is a clerical error which records the carpet cleaning charges as \$145.00 and not \$149.00 as listed on the actual invoice. I have allowed the claim based on the invoice amount of \$149.00, as that was the actual amount of the loss, pursuant to section 62 of the Act.

Given the evidence before me, in the absence of any evidence from the Tenants who did not appear, despite being properly served with notice of this proceeding, I accept the

undisputed version of events as discussed by the Landlord and corroborated by their evidence. Accordingly, I find the Landlord has met the burden of proof and I award them a monetary amount of **\$1,674.00**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security deposit plus interest as follows:

July 2013 Rent	\$1,000.00
Liquidated Damages	500.00
Late payment fee for July 2013	25.00
Carpet Cleaning	149.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$1,724.00
LESS: 5 Payments of \$50.00 each	-250.00
LESS: Security Deposit \$500.00 + Interest 0.00	<u>-500.00</u>
Offset amount due to the Landlord	<u>\$ 974.00</u>

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$974.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: March 28, 2014

Residential Tenancy Branch

