



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

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

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 29, 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 with both parties in attendance.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started in the middle of September, 2012 as a month to month tenancy. Rent was \$700.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$325.00 during the tenancy. The Tenant said she moved out of the rental unit on March 15, 2014.

The Landlord said that the Tenant did not pay \$700.00 of rent and \$112.51 for March, 2014 when it was due so the Landlord issued a 10 Day Notice to End Tenancy dated March 9, 2014. The Landlord said he posted the Notice to End Tenancy on the door of

the Tenant's rental unit on March 15, 2014. The Tenant said she received the 10 Day Notice to End Tenancy.

The Landlord also requested to recover the \$50.00 filing fee for his application.

The Tenant said that she is not disputing that she did not pay the rent and utilities for March, 2014, but she thought she only owed the rent from March 1 to March 15, 2014 as that is when she moved out. The Tenant continued to say this was a difficult time for her as her mother passed away and she had quite a lot to deal with.

The Landlord said in closing that he will consider a reduced amount to settlement this dispute as he likes the Tenant and thought well of her.

A reduced amount of settlement can be negotiated by the parties after the hearing if desired.

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 Tenant did not pay the March, 2014 rent and utilities when due and the Tenant does not have the right under the Act to withhold part or all of the rent and utilities; therefore I find the Tenant is responsible for the rent of \$700.00 and utilities of \$112.51 for March, 2014. I award the Landlord \$812.51 for unpaid rent and utilities.

As the Landlord has been successful in this matter, he 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:	\$ 700.00	
	Unpaid utilities	\$ 112.51	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 862.51
Less:	Security Deposit	\$ 325.00	
	Subtotal:		\$ 325.00
	Balance Owing		\$ 537.51

Conclusion

A Monetary Order in the amount of \$537.51 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: July 16, 2014

Residential Tenancy Branch