



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, 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 registered mail on December 3, 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 arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent 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?

Background and Evidence

This tenancy started on July 1, 2012 as a fixed term tenancy with an expiry date of June 30, 2013. Rent was \$950.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$475.00 in June, 2012. The Landlord said the Tenant moved out of the rental unit sometime between April 15, 2013 and May 1, 2013 without proper notice to the Landlord. The Landlord said a move in condition inspection was completed and signed on June 7, 2012 and a move out inspection was completed on May 11, 2013.

The Landlord said that the Tenants did not pay \$950.00 of rent for April, 2013. The Landlord said she issued a 10 Day Notice to End Tenancy dated April 15, 2013, which is in the Landlord's hearing package. The Landlord continued to say that the Tenant

signed a fix term tenancy that ended on June 30, 2013 therefore the Tenant is responsible for the rent until June 30, 2013. The Landlord said they were unable to rent the unit until September, 2013 even though they advertised it and showed it 6 or 7 times. The Landlord said she is requesting the unpaid rent for April, May and June, 2013 in the total amount of \$2,850.00 less the security deposit of \$475.00 for a total claim of \$2,375.00.

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

The Tenant said that he left the renal unit due to severe health issues, but he does not dispute the Landlord's claim for unpaid rent. The Tenant continued to say he has had a good relationship with the Landlord over many years and he has told the Landlord he will repay the unpaid rent when he is able to.

The parties were given an opportunity to settle the dispute between themselves but the Landlord said she is acting for the company and she did not have the authority to negotiate. The Landlord said she wished she did. The Tenant said he understood the situation.

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.

Section 45 of the Act says a Tenant may end a fixed term tenancy not earlier than the date specified in the tenancy agreement and it must be with written notice at least one month prior to the date that rent is payable or with the written agreement of the Landlord.

The Tenant did not give the Landlord proper notice to end the tenancy and the Tenant does not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent of \$950.00 for each month of April, 2013, May, 2013 and June, 2013 in the total amount of \$2,850.00.

As well 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:	\$ 2,850.00
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	Recover filing fee	\$ 50.00
	Subtotal:	\$2,900.00
Less:	Security Deposit	\$ 475.00
	Subtotal:	\$ 475.00
	Balance Owing	\$ 2,425.00

Conclusion

A Monetary Order in the amount of \$2,425.00 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: May 04, 2015

Residential Tenancy Branch

