



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MNDC

Introduction

This hearing was convened as the result of the landlords' application for dispute resolution under the Residential Tenancy Act ("Act"). The landlords applied for authority to keep all or part of the tenants' security deposit, a monetary order for money owed or compensation for damage or loss and unpaid rent.

The listed landlord appeared; the tenants did not appear.

The landlord testified that they served each tenant with their application for dispute resolution and notice of hearing by registered mail on November 6, 2014. The landlords supplied testimony of the tracking numbers for each of the registered mail envelopes and stated the address used was the address supplied by the tenants.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing and the landlords' application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Are the landlords entitled to retain the tenants' security deposit and further monetary compensation?

Background and Evidence

The landlord submitted that this 8 month, fixed term tenancy began on August 1, 2014, ended instead on October 20, 2014, when the tenants vacated the rental unit, monthly rent was \$1100.00, and the tenants paid a security deposit of \$550.00. The landlord submitted a copy of the written tenancy agreement.

The landlords claim unpaid rent of \$1100.00 each for October and November 2014.

The landlord submitted that the tenants failed to pay rent for October 2014, when it was due, and that as a result, the tenants were issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice") on October 6, 2014, listing unpaid rent of \$1100.00 for that month. The tenants vacated the rental unit on October 20, 2014, without paying rent for October. The landlords provided a copy of the Notice.

The landlord submitted further that they were entitled to loss of rent revenue for November 2014, as the tenants broke the terms of the fixed term tenancy.

The landlord confirmed that after advertising the rental unit, they secured new tenants for the rental unit and they moved in on November 11, 2014, paying the amount of \$733.20 for rent for the balance of November 2014.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

Based upon the landlords' undisputed evidence, I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, that they owed the amount listed on the Notice as unpaid rent when it was served, and that they failed to pay this rent prior to vacating.

I therefore find that the landlords are entitled to a monetary award of \$1100.00 for unpaid rent for October 2014.

As to the landlords' claim for loss of rent revenue for November 2014, the tenants were obligated to pay the monthly rent to the end of the fixed term, here March 31, 2015, according to the terms of the written tenancy agreement. Under section 7(2) of the Act, the landlords were required to take reasonable steps to minimize their loss, and as the landlords secured new tenants for at least part of the following month, I find that they did.

As the landlords were paid the amount of \$733.20 from the succeeding tenants, I find the landlords are entitled to a monetary award for loss of rent revenue for the difference in that amount and the amount the tenants owed under the written tenancy agreement,

or \$1100.00. I therefore grant the landlords a monetary award for loss of rent revenue for November 2014, in the amount of \$366.80.

I also award the landlords recovery of their filing fee of \$50.00, pursuant to section 72(1) of the Act.

Due to the above, I find the landlords are entitled to a total monetary award of \$1516.80, comprised of unpaid rent of \$1100.00 for October 2014, loss of rent revenue for November in the amount of \$366.80, and \$50.00 for recovery of the filing fee paid for this application.

At the landlords' request, I direct them to retain the tenants' security deposit of \$550.00 in partial satisfaction of their monetary award of \$1516.80 and I grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$966.80, which is enclosed with the landlords' Decision.

Should the tenants fail to pay the landlords this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlords' application for monetary compensation is successful as they have been granted a monetary award of \$1516.80, and directed them to retain the tenants' security deposit in partial satisfaction of that award. The landlords are issued a monetary order for the balance due.

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: June 5, 2015

Residential Tenancy Branch

