



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for Cause pursuant to section 55; a monetary order for unpaid rent, damage or loss pursuant to section 67; authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:50 in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 pm. The landlord and his assistant attended the hearing and were given a full opportunity to be heard, to present sworn testimony, and to make submissions. The landlord testified that the tenant had vacated the residence and he withdrew his application for an order of possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for loss? Is the landlord entitled to retain the tenant's security deposit towards any monetary award?

Background and Evidence

The landlord gave evidence that the residential tenancy agreement began on May 15, 2015. The rental amount for this unit was established at \$375.00 payable on the first of each month. The landlord testified that he continued to hold the \$187.50.00 security deposit paid by the tenant on June 7, 2015 (after the start of the tenancy).

The landlord had originally applied for an Order of Possession for unpaid rent for the month of October 2015. The landlord testified that the tenant did not pay rent of \$375.00

due on October 1, 2015. The landlord testified that the tenant was late in paying rent on July and September 2015.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent with respect to October 2015 rent. He submitted a copy of this notice and relied on this notice as proof that the tenant failed to pay rent in October 2015. On or about November 26, 2015, the landlord discovered that the tenant had vacated the rental unit with no notice or acknowledgment of move-out to the landlord. The landlord submitted condition inspection reports completed at the start and end of this tenancy.

The landlord sought a total monetary amount of \$825.00; an amount of \$375.00 for November 2015 unpaid rent; and an amount for rental loss of \$375.00 for December 2015 as he has been unable to re-rent the unit. The landlord testified that he has advertised and tried to get a new tenant in within the community but has been unsuccessful.

The landlord also sought an additional monetary amount of \$75.00 for fees for late payment of rent in the months of July, September and October 2015. The landlord testified that he charges \$25.00 per late rental payment. The landlord provided a copy of the residential tenancy agreement that refers to the late payment fee.

Analysis

I find that the landlord is entitled to receive an order for unpaid rent for the month of November. Based on the date of this hearing and the evidence provided with respect to the state of the rental unit at the end of the tenancy, and the lack of notice provided to the landlord, I find that the landlord is also entitled to rental loss for the month of December 2015. I accept this uncontested evidence offered by the landlord that cleaning and repair was required within the rental unit. I further accept the testimony of the landlord that he was provided with no notice that the tenant intended to vacate the unit therefore allowing him to find a new renter for the month of December. I accept the landlord's undisputed testimony that he has made attempts to re-rent the unit but, as of the date of this hearing, he has been unable to do so. Therefore, I am issuing the attached monetary order that includes the landlord's application for \$750.00 in unpaid rent and rental loss.

The landlord also applied for \$75.00 for late payment of rent fees for July, October and November. He provided copies of the written tenancy agreement which established this late payment fee. He provided evidence, in the form of 10 Day Notices issued in each of these months that the tenant failed to pay rent on time or, in the case of November, at

all. I find that the landlord is entitled to a \$25.00 late fee for each month; July, September and November 2015.

The landlord testified that he continues to hold a security deposit of \$187.50 plus any interest from June 7, 2015 to the date of this decision for this tenancy. There is no interest payable for this period. I will allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for November 2015	\$375.00
Rental Loss for December 2015	375.00
Late Payment Fees for 3 mnths x 25.00 <i>July, September, October 2015</i>	75.00
Less Security Deposit	-187.50
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$687.50

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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: December 29, 2015

Residential Tenancy Branch

