



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Dogwood Campgrounds of BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MND, MNR, O, FF

Introduction

This is an application brought by the Landlord(s) requesting a Monetary Order in the amount of \$4517.00, and recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not the applicant has established a monetary claim against the respondent's, and if so in what amount.

Background and Evidence

The landlord testified that the respondents were originally employees, and were provided the rental unit as part of their employment, and that the value of that rental unit was set at \$900.00 per month.

The landlord further testified that they terminated the tenant's employment on June 17, 2015, and therefore from that date on it became the tenants responsibility to pay the rent.

The landlord further testified that the tenants failed to pay any rent, and failed to move their belongings out of the rental unit until October 3, 2015 and therefore there is a total rent outstanding as follows:

June 2015 rent prorated	\$391.00
July 2015 rent	\$900.00
August 2015 rent	\$900.00
September 2015 rent	\$900.00
October 2015 rent prorated	\$89.00
Total	\$3180.00

The landlord further testified that the tenants also had a large number of items stored at the rental property and therefore, since the tenants also failed to remove those items until October 3, 2015 he is also requesting storage fees as follows:

June 2015 storage prorated	\$53.00
July 2015 storage	\$119.00
August 2015 storage	\$119.00
September 2015 storage	\$119.00
October 2015 storage prorated	\$10.00
Total	\$420.00

Landlord further testified that he believes the amount he is charging is nominal considering the large amount of storage space the tenants were using.

The landlord further testified that when the tenants vacated the rental unit they left the unit in need of significant cleaning and junk removal, and it took a total of 16 hours to clean up the rental unit. He is therefore requesting total cleaning costs of \$167.00 which he believes is also very reasonable.

Landlord also testified that, even though he had given the proper 24 hour notice of entry, the tenants failed to allow entry by the company doing the asbestos mitigation work, on two occasions, and as a result the company charged him an extra \$750.00.

The landlord is therefore requesting a total Order as follows:

total rent outstanding	\$3180.00
Total storage outstanding	\$420.00
Cleaning and junk removal	\$167.00
Extra charges by environmental company	\$750.00
Filing fee	\$50.00
Total	\$4567.00

The tenants testified that they were unable to live in the rental unit from June 17, 2015 on because of asbestos contamination in the rental property, and that both work safe BC and the health department had deemed the property unfit for human occupation.

The tenants further testified that they could not remove their belongings right away as they had no place to put them; however the landlord also refused them access to remove their belongings, when they wanted to do so. They therefore do not believe they should be charged anything further for rent or storage.

As far as the landlords claim that he gave them written notice to enter the rental property to do the asbestos mitigation, they deny ever receiving written notice from the landlord to enter the rental unit to do the asbestos mitigation. Further, had the landlord really wanted to enter, the landlord had a key and could have accessed the rental unit anyway.

The tenants therefore request of the landlords full claim be dismissed.

Analysis

It is my decision that I will allow the landlords claim for rent from June 18, 2015 through October 3, 2015, when the tenants finally remove their belongings from the rental unit.

The tenants claim that the rental unit was uninhabitable due to asbestos contamination, however it appears that asbestos contamination was caused by the tenants when they opened a wall in the rental unit, and as there is no evidence to show that they were given any permission to open that wall, the tenants are still liable for the outstanding rent even if they choose not to live in the rental unit.

The tenants also claim that the landlord refused them access to remove their items, however they have provided no evidence in support of that claim and therefore since the landlord denies refusing them access, it is my finding that the tenants have not met the burden of proving their claim that the landlord denied them access.

I will not; however allow the landlords claim for storage, because although there was an agreement that the value of the accommodation provided was \$900.00 per month, there is no agreement that the tenants would pay extra for items stored at the property and therefore the assumption must be made that the storage was also provided in that \$900.00 per month fee.

I also deny the landlords claim for cleaning and junk removal, because the landlord has provided no evidence in support of this claim, other than an invoice to the tenants from his own company for cleaning and junk removal.

I also deny the landlords claim for costs paid to the environmental company when they were unable to access the rental unit because, although landlord claims to have given the proper written notice of entry, the landlord has provided no evidence in support of that claim, and the tenants deny ever receiving the proper 24 hour written notice of entry. Therefore it's my finding that the landlord has failed to meet the burden of proving his claim that he gave the 24 hour written notice.

I will allow the landlords request for recovery of the \$50.00 filing fee however because I have still allowed a large portion of the landlords claim.

Conclusion

Pursuant to sections 67 and 72 of the Residential Tenancy Act I have issued a Monetary Order in the amount of \$3230.00.

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: April 27, 2016

Residential Tenancy Branch