



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNR, MND, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property, compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on November 20, 2015. The Landlord said the package was not claimed and was returned to him. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

During the conference call the Landlord amended his application to retain the Tenants' security deposit as the Landlord wanted to apply the deposit to unpaid rent. The Arbitrator accepted the amendment.

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 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 Tenants' security deposit?

Background and Evidence

This tenancy started on June 1, 2013 as a fixed term tenancy with an expiry date of May 31, 2014 and then was renewed for June 1, 2014 to September 30, 2014. Rent was \$2,041.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$998 at the start of the tenancy. The Landlord said a move in condition inspection was completed on move in and the tenancy ended on June 30, 2014 as a result of a 10 Day Notice for unpaid rent dated June 16, 2014.

The Landlord said that the Tenants did not pay \$2,041.00 of rent for June 2014 and \$921.75 of unpaid rent for July 1 to July 15, 2014. The Landlord said he rented the unit to a new tenant on July 15, 2014 for \$1,998.00 which is \$43.00 per month less than the previous rental amount. As

a result the Landlord is requesting \$43.00 of lost rental income for August and September, 2014 which was the end of the fixed term tenancy agreement and \$21.50 lost rental income for July 15 to July 31, 2014.

Further the Landlord said the Tenants' have unpaid utility bills in the amount of \$338.09. The Landlord said the total he is claiming for unpaid rent, lost rental income and unpaid utilities is \$3,408.34.

In addition the Landlord said he is requesting \$11.70 for dump fees, \$219.45 for carpet cleaning and \$175.00 for general cleaning of the rental unit. The Landlord said the Tenants did not clean the unit when they left. The Landlord provided paid receipts for these expenses.

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

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 agreement of the Landlord.

The Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the rent of \$2,041.00 for June, 2014 and for the rent of \$921.75 for July 1 to July 15, 2014. Unpaid utilities are treated as unpaid rent if the Landlord gives the Tenants a formal demand to pay the utility bills. I find the Landlord has given the Tenants that demand in the application and therefore I award the Landlord \$338.09 of unpaid utilities. Further the Landlord has a lost rental income of \$107.50 because the new tenancy is at a lower rent than the tenancy with the Tenants. I find for the Landlord and award the Landlord \$107.50 in additional lost rental income.

For a monetary claim for damage or loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlord has provided receipts for his claim of carpet cleaning in the amount of \$219.45, the dump fee of \$11.70 and the cleaning costs of \$175.00. I accept the Landlord's evidence and testimony and award the Landlord the \$219.45 for carpet cleaning, \$11.70 for dump fees and \$175.00 for cleaning costs

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants 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 Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 2,041.00
	Lost rental income:	\$ 1,029.25
	Unpaid utilities	\$ 338.09
	Carpet cleaning	\$ 219.45
	Dump fees	\$ 11.70
	Cleaning	\$ 175.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$3,864.49
Less:	Security Deposit	\$ 998.00
	Subtotal:	\$ 998.00
	Balance Owing	\$ 2,866.49

Conclusion

A Monetary Order in the amount of \$2,866.49 has been issued to the Landlord. A copy of the Order must be served on the Tenants: 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: June 20, 2016

Residential Tenancy Branch