



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLDWELL BANKER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security and pet deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

During the course of the hearing the landlord's agent withdrew the landlord's claim for a Monetary Order for damage to the unit, site or property and for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulations or tenancy agreement.

The tenants and landlord's agent (the landlord) attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions under oath. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenants confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord permitted to keep the security and pet deposits?

Background and Evidence

The parties agreed that this tenancy originally started on May 01, 2011. The tenancy was renewed each year until the last agreement which started on May 01, 2013 for a fixed term that was due to end on April 30, 2014; thereafter the tenancy continued on a month to month basis until it was ended on November 30, 2015. Rent for this unit was \$2,200.00 per month due on the first of each month. The tenants paid a security deposit of \$1,100.00 and a pet deposit of \$200.00 on April 05, 2011.

The landlord testified that the tenants failed to pay rent for September, 2015 of \$1,075.00. The tenants failed to make any rent payments for October and November, 2015. The total amount of outstanding rent is \$5,475.00.

The landlord testified that the tenants gave permission in writing for the landlord to keep the security deposit and pet deposit to cover the unpaid rent when they signed the move out condition inspection report on November 30, 2015. The landlord therefore seeks to recover the amount of \$4,175.00 from the tenants plus the \$100.0 filing fee for this application.

The tenants agreed that they do owe rent of \$5,475.00 and also agreed that they put in writing that the landlord could keep the security and pet deposits to offset against the rent. The tenants testified that it was always their intention to pay the rent but have been experiencing financial difficulties after one of the tenants lost their job.

Analysis

With regard to the landlord's claim for unpaid rent; I refer the parties to s. 26 of the Act which states:

26. 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.

As the tenants do not dispute that they owe rent to the landlord as documented above; I find in favor of the landlord's application to recover the unpaid rent of \$5,475.00.

As the tenants have agreed in writing that the landlord may retain the security and pet deposits to a total amount of \$1,300.00 then I am not required to make a decision regarding either of the deposits; I have however offset these deposits against the landlord's monetary claim for unpaid rent.

The landlord is entitled to a Monetary Order to recover the unpaid rent and the \$100.00 filing fee pursuant to s. 67 and 72(1) of the Act. A Monetary Order has been issued to the landlord for the following amount:

Unpaid rent	\$5,475.00
Filing fee	\$100.00
Less security and pet deposit	(-\$1,300.00)
Total amount due to the landlord	\$4,275.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$4,275.00**. The Order must be

served on the respondents. Should the respondents fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia as an Order of that Court.

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: February 22, 2017

Residential Tenancy Branch

