



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlords attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlords stated that the tenants were served with the notice of hearing package and the submitted documentary evidence in person on October 6, 2017. In support of this claim the landlords have provided a copy of a letter dated October 18, 2017 written by the landlord, J.F. confirming service in person on October 6, 2017. I accept the undisputed affirmed evidence of the landlords and find that the tenants were properly served as per sections 88 and 89 of the Act.

Preliminary Issue

At the outset the landlords' monetary claim was reviewed and the landlords confirmed that of the 9 items listed on the monetary worksheet dated October 3, 2017, only 1 item (#3) was not dealt with in a preceding decision.

The landlords seek a monetary claim of \$2,656.52 which consists of:

#1	\$2,275.00	Unpaid Rent, December 2015
#2	\$1,137.50	Loss of Rental Income, ½ of January 2016
#3	\$1,137.50	Loss of Rental Income, ½ of January 2016
#4	\$4,550.00	Sub-total
#5	(\$2,043.48)	Offset
#6	\$2,506.52	Balance of Unpaid Rent and Loss of Rental Income
#7	\$50.00	Late Fees (X2 @ \$25.00/each)

#8	?	Statutory Interest
#9	\$100.00	Filing Fee

As such, with the exception of item #3, \$1,137.50, Loss of Rental Income for ½ of January 2017, the remaining items listed are dismissed. These matters were dealt with in preceding Decisions (listed on the cover page of this Decision).

I note that the landlords were repeatedly cautioned that a Decision made in another hearing could not be dealt with by filing another application for dispute for the same matter. The landlords acknowledged their understanding of the Application and Review process of a Decision, but continued to refer to portions of those other decisions.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlords seek an amended monetary claim of \$1,237.50 which consists of:

\$1,137.50	Loss of Rental Income, January 15-31, 2016
\$100.00	Recovery of Filing Fee

The landlords claim as a result of failing to comply with a mutual agreement to end the tenancy, the tenants pre-maturely vacated the rental unit on December 31, 2015 without notice. The landlords discovered the rental premises dirty and un-rentable with oil stains. The landlords provided undisputed affirmed testimony that the rental premises were not rentable for January 2016 and as a result and seek the remaining ½ of January 2017 rent for \$1,137.50.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed affirmed testimony of the landlords and find that the tenants vacated the rental unit prematurely on December 31, 2015 as opposed to complying with a mutual agreement to end tenancy on January 31, 2016. Therefore not providing the landlord with proper 1 Months' Notice. As a result of a previous decision a monetary order was granted for the period January 1-15, 2016 for \$1,137.50, the landlords are granted a monetary claim for \$1,137.50 for compensation for the loss of rental income for the period January 15-31, 2016.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlords are granted a monetary order for \$1,237.50.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the order may be filed in the Small Claims Division 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: May 04, 2018

Residential Tenancy Branch