



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on March 4, 2018 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for money owed or compensation for damage or loss; and
- an order granting recovery of the filing fee.

The Landlord N.V. attended the hearing on behalf of both Landlords and provided affirmed testimony. The Tenant did not attend the hearing.

N.V. testified the Application package was served on the Tenant by registered mail at a forwarding address provided by the Tenant on March 9, 2018. A screen print from the Canada Post website was included in support. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Application package is deemed to have been received by the Tenant on March 14, 2018.

N.V. was provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Landlords entitled to a monetary order for money owed or compensation for damage or loss?
2. Are the Landlords entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed that a fixed-term tenancy began on August 15, 2017, and was expected to continue to August 15, 2018. Rent in the amount of \$1,200.00 per month was due on the first day of each month. N.V. confirmed the Tenant paid a security deposit of \$600.00 and a pet damage deposit of \$600.00, which the Landlords hold.

The Landlords claimed \$1,200.00 for rent due on February 1, 2018. N.V. confirmed the Tenant provided written notice of her intention to vacate the rental unit by email dated December 31, 2018. The effective date of the Tenant's notice was indicated to be "the end of January". A copy of the Tenant's email was submitted into evidence. However, the Tenant did not vacate the rental unit until February 10, 2018, and did not pay rent when due on February 1, 2018.

Further, N.V. testified the Landlords were unable to re-rent the unit until March 1, 2018. A copy of the new tenancy agreement was submitted into evidence by the Landlords.

The Tenant did not attend the hearing to dispute the Landlords' evidence.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 45 of the *Act* confirms that a tenant may not end a fixed tenancy earlier than the date specified in the tenancy agreement as the end of the tenancy. In this case, I find the Tenant gave the Landlords written notice to end the tenancy on January 31, 2017, contrary to the terms of the tenancy agreement and section 45 of the *Act*. Further, I find the Tenant did not vacate the rental unit until February 10, 2018, and did not pay rent when due on February 1, 2018. The Landlords mitigated their losses by re-renting the unit effective March 1, 2018.

In light of the above, I find the Landlords are entitled to recover \$1,200.00 for lost rent for the month of February 2018. The Landlords' claim is limited to this amount as the unit was re-rented as of March 1, 2018. I order that the Landlords may retain the security and pet damage deposits satisfaction of the unpaid rent.

Having been successful, I also find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I grant the Landlords a monetary order in the amount of \$100.00 in recovery of the filing fee.

Conclusion

The Landlords are granted a monetary order in the amount of \$100.00. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: October 1, 2018

Residential Tenancy Branch