



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAROLYN BEATON
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

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

The Landlord's Agent said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 25, 2018. Based on the evidence of the Landlord's Agent, 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.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for damage or loss and if so how much?

Background and Evidence

This tenancy started on November 8, 2017 as a fixed term tenancy with an expiry date of May 31, 2018. Rent was \$2,400.00 per month payable in advance of the 1st day of each month. The Tenant requested to prepay \$13,760.00 of rent for November 8, 2018 to April 30, 2018, which the Landlord agreed to and accepted. The Tenant paid a security deposit of \$1,200.00 on November 8, 2017. The Landlord said the Tenants requested a Mutual Agreement to end the tenancy on January 30, 2018 which the Landlord agreed to. The effective vacancy date on the Mutual Agreement to End Tenancy is March 31, 2018. The Tenancy ended on March 31, 2018. A move in condition inspection report was completed on November 9, 2017 and a move out condition inspection report was completed on March 31, 2018. The Landlord also returned the Tenants' security deposit just after March 31, 2018 by mailing it to the address the Tenants gave the Landlord at the move out inspection.

The Landlord continued to say he returned the rent for April and May, 2018 in the amount of \$4,800.00 because the tenancy ended 2 months before the end of the fixed term. The Landlord's agent thought that the Tenants had prepaid the rent until the end of the fixed term or May 31, 2018. After the Tenants moved out the Landlord's agent discovered the Tenant only prepaid the rent until April 30, 2018 not May 31, 2018, the end of the fixed term tenancy agreement. Consequently the Landlord's agent requested the Tenants to return \$2,400.00 of the \$4,800.00 paid to them for prepaid rent. The Landlord's agent said he tried to contact the Tenants by phone, email and a registered letter dated July 5, 2018. The Landlord's agent said he got no response so he made this application to recover the overpayment of returned prepaid rent.

The Landlord's agent said he is requesting the return of \$2,400.00 of overpayment for prepaid rent for the month of May, 2018 as this rent payment was not paid by the Tenants. As well the Landlord requested to recover the \$100.00 filing fee if they are successful in their application.

Analysis

For a monetary claim for damage of 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's agent has proven the loss exists and he has verified the loss by providing rent payment information and a letter to the Tenants requesting the return of the over payment of prepaid rent. As well the Landlord's Agent acted responsibly when the accounting error was discovered and he tried to mitigate his loss as best as he could. Consequently, I find the Landlord's Agent has established grounds to be awarded the over payment return of prepaid rent in the amount of \$2,400.00.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Overpayment return of prepaid rent	\$ 2,400.00
Recover filing fee	\$ 100.00
Subtotal:	\$2,500.00
Balance Owing	\$2,500.00

Conclusion

A Monetary Order in the amount of \$2,500.00 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: November 26, 2018

Residential Tenancy Branch