



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenants' security deposit and pet deposit 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 July 26, 2019. 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.

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 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 Tenant's security and pet deposits?

Background and Evidence

This tenancy started on November 1, 2018 as a fixed term tenancy with an expiry date of October 31, 2019. Rent was \$1,795.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$900.00 on October 18, 2018 and a pet deposit of \$100.00 paid during the tenancy. The Landlord said the Tenants were moved out of the rental unit on August 9, 2019 by the bailiff.

The Landlord said that the Tenants did not pay \$\$11,630.00 of rent from November 2018 to July 2019. Further as the Tenants were in the rental unit in August 2019 and because the unit was left in very poor condition the Landlord said he could not rent it out until October 2019. The Landlord requested the August rent of \$1,795.00 as well as the previous unpaid rent. The Landlord provided affirmed testimony of the unpaid rent and he provided the rent payment ledger in the evidence package in support of his claims for unpaid rent.

The Landlord also requested to recover his filing fee or \$100.00 if he is successful.

The Landlord said his total claim is \$13,425.00 in unpaid rent and the \$100.00 filing fee.

Analysis

Section 26 of the Act 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.

I accept the Landlord's undisputed testimony and evidence for unpaid rent during the tenancy. As well, the Tenants did not give the Landlord proper notice to end the tenancy for the fixed term of the tenancy which was October 31, 2019. The Tenants do not have the right under the Act to withhold part or all of the rent. Consequently, I find the Tenants are responsible for the unpaid rent up to and including August 2019 in the amount of \$13,425.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$100.00 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 and pet deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 13,425.00	
	Recover filing fee	\$ 100.00	
	Subtotal:		\$13,525.00
Less:	Security Deposit	\$ 900.00	
	Pet Deposit	\$ 100.00	
	Subtotal:		\$ 1,000.00
	Balance Owing		\$ 12,525.00

Conclusion

A Monetary Order in the amount of \$12,525.00 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 5, 2019

Residential Tenancy Branch