



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: MNR and FF

Introduction

This application was brought by the landlord seeking a Monetary Order for loss of rent and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off after the tenants left a fixed term rental agreement prior to its expiry date.

Despite being served with the Notice of Hearing sent by registered mail to all three tenants on January 7, 2009, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issue(s) to be Decided

This application requires a decision on whether the landlords are entitled to a Monetary Order for the loss of rent at the end of the tenancy.

Background and Evidence

This tenancy began September 5, 2008 under a 10- month fixed term rental agreement to June 30, 2009. Rent was \$2,500 per month and the landlords held a security deposit of \$1,250 paid on or about September 5, 2008.

During the hearing, the landlord gave evidence that the tenants had moved out of the rental unit at the end of December 2008 without having given notice.

The landlord stated that she began advertising in early January, but had not, at the time of the hearing, been successful at finding new tenants.

Analysis

Section 7 of the *Act* states that parties to a residential tenancy agreement who breach the legislation or rental agreement must compensate the other for damages arising from that breach provided the aggrieved party has acted to mitigate their losses.

In this instance, I find that the landlords have suffered damages in loss of rent as result of the tenants leaving the tenancy without giving the required notice. I further find that the landlords acted to minimize their loss by advertising immediately for new tenants.

The landlords seek, and I find they are entitled to a Monetary Order for loss of rent for January 2009 and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off as follows:

January 2009 rent	\$2,500.00
Filing fee	<u>50.00</u>
Sub total	\$2,550.00
Less retained security deposit	- 1,250.00
Less interest (Sept. 2008 to date)	- <u>5.92</u>
TOTAL	\$1,294.08

Conclusion

Thus, the landlord is entitled to retain the security deposit with interest and this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$1,294.08 for service on the tenants.

March 4, 2009

Dispute Resolution Officer