BRITISH COLUMBIA

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>   MNR, FF

<u>Introduction</u>

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent 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 September 29, 2012. Based on the evidence of the Landlords, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

<u>Issues(s) to be Decided</u>

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?

<u>Background and Evidence</u>

This tenancy started on June 1, 2012 as a fixed term tenancy with an expiry date of April 30, 2013. Rent was $1,500.00 per month payable in advance of the 1st day of each month. The tenancy agreement required a security deposit of $750.00, but no security deposit was paid.

The Landlord said the Tenants moved out of the rental unit on September 5, 2012 and left the unit in poor condition.

The Landlord continued to say that the Tenants did not pay $500.00 of rent for the month of June, 2012, $1,500 for the month of July, 2012 and $1,500.00 for the month of August, 2012, when it was due and as a result, on August 21, 2012 he emailed a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 21, 2012 to the Tenants. The Landlord said the Tenant acknowledged receiving the 10 Day Notice by email to him and he included the Tenant's email in the evidence package.   As well the Landlord said the Tenants have unpaid rent for September, 2012 of $1,500.00. In addition since the tenancy agreement is for a fixed term to April 30, 2013 the Tenants

are responsible for the loss rental income from October 1, 2012 to October 15, 2012. October 15, 2012 is when the unit was rented to new tenants.

Analysis

Section 26 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.

The Tenants did not have the right under the Act to withhold part or all of the rent for June, July, August and September, 2012 and the Tenants are responsible for the loss rental income of the Landlord from October 1, 2012 to October 15, 2012 in the amount of $750.00. Consequently I find in favour of the Landlord for the unpaid rent of $500.00 for June, 2012 and $1,500.00 for each month of July, August and September, 2012 in the amount of $4,500.00. As well I find that the Landlord had a loss of rental income for the time period of October 1, 2012 to October 15, 2012 in the amount of $750.00, which the Tenants are responsible for as a consequence of the fixed term tenancy agreement signed June 1, 2012.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenants the $100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	$5,000.00	
Lost rental income	$ 750.00	
Recover filing fee	$ 100.00	
Subtotal:		$5,850.00
Balance Owing		$ 5,850.00

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Conclusion

A Monetary Order in the amount of $5,850.00 has been issued to the Landlords. 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.*

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Residential Tenancy Branch