



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, MNDC, FF

Introduction

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on September 14, 2008. A tracking number was provided. The Canada Post website shows the mail was unclaimed. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

At the beginning of the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the Tenant vacated the rental unit on September 18, 2008.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; a monetary Order for a late fee; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The tenancy agreement shows that the Tenant is required to pay monthly rent of \$640.00, and that she paid a security deposit of \$285.00 on April 11, 2006.

The Agent for the Landlord stated that the Tenants vacated the rental unit on September 18, 2008, as a result of a 10 Day Notice to End Tenancy, which indicated that they were required to vacate the rental unit on September 16, 2008. As the Landlord would not be reasonably able to find new tenants for the remainder of September, I find that the Tenant must compensate the Landlord for rent for the entire month of September.

The Agent for the Landlord stated that the Tenant still owes \$616.00 in rent from September of 2008. He stated that new tenants moved into the rental unit on October 01, 2008, so they are not seeking compensation for loss of rent.

The Agent for the Landlord stated that the tenancy agreement requires the Tenant to pay a fee of \$25.00 if he is late paying his rent. The Agent stated that the Tenant was late paying his rent in September of 2008.

Analysis

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$616.00 for September of 2008. In the absence of evidence to the contrary, I find that the Tenant was late paying rent in September, and that he agreed to pay a late fee of \$25.00 for paying his rent late.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of \$293.61, in partial satisfaction of the monetary claim.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$691.00, which is comprised on \$616.00 in unpaid rent; a \$25.00 late fee; and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of \$293.61, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$397.31. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: October 02, 2008
