



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

At the hearing the Agent for the Landlord withdrew the application for an Order of Possession and for a monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*.

Issue(s) to be Decided

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

Background and Evidence

The Agent for the Landlord and the Tenant agree that this tenancy began on May 19, 2008. Tenant stated that the monthly rent for this rental unit at the beginning of the tenancy was \$1,300.00, but that it was reduced to \$1,100.00 for the month of September. The Agent for the Landlord stated that the tenancy agreement shows the monthly rent is \$1,300.00, and that there has been no agreement to change the amount of rent due.

The Agent for the Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of September 13, 2008 was served on the Tenant.

The Tenant stated that she vacated the rental unit on September 25, 2008. She stated that she gave the key to the new tenants on that date, who were in the process of moving into the rental unit.

The Agent for the Landlord stated that the rental unit was rented to new tenants for October 01, 2008. He stated that the new tenants took occupancy of the rental unit on September 27, 2008, but that they did not pay rent for any days in September of 2008.

The Tenant stated that she paid \$800.00 towards her September rent on August 24th or 25th of 2008. The Tenant did not submit any evidence to show how much rent she paid for September.

The Agent for the Landlord stated that he was advised by the owner that the Tenant only paid \$500.00 in rent for September of 2008. The Agent submitted no evidence to establish how much rent had been received for rent for September. The Agent declined the opportunity to withdraw the application for a monetary order and to proceed at a later date once he has had the opportunity to submit additional evidence in support of his claim.

The Notice indicated that the Notice would be automatically cancelled if the Landlord received **\$337.00** within five days after the Tenant is assumed to have received the Notice. The Notice also indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant files an Application for Dispute Resolution within five days.

The **Agent for the Landlord** stated that the Tenant still owes \$337.00 in rent from August of 2008.

Analysis

In the absence of evidence that corroborates the Tenant's statement that the monthly rent has been reduced to \$1,100.00, I find that the rent was \$1,300.00, as stated by the Agent for the Landlord and as documented on the tenancy agreement.

In the absence of evidence that corroborates the Agent for Landlord's statement that the Tenant paid \$500.00 for rent in September, and that she still owes \$800.00 for rent, I cannot conclude that the Tenant owes \$800.00 in rent for September of 2008.

On the basis of the Tenant's statement that she paid \$800.00 in rent for September of 2008, I find that the Tenant still owes \$500.00 in rent for September.

I find that the Landlord's 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.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$550.00, which is comprised on \$500.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$550.00. 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 03, 2008
