

Decision

Dispute Codes:

MNR MNSD FF O

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

The Landlord gave affirmed evidence and this Application proceeded on its merits.

Issue(s) to be Decided

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord. The issues to be determined based on the testimony and the evidence are:

- Whether the Landlord is entitled to a monetary order for unpaid rent or utilities, to keep the security deposit;
- Whether the Landlord is entitled to recover costs of removing the Tenant's personal belongings from the rental unit; and
- Whether the Landlord is entitled to recover the filing fee from the Tenant for this application.

Background and Evidence

The Landlord testified that he served the Tenant with his Application for Dispute Resolution filed December 3, 2008, along with the Notice of Hearing and copies of the Landlord's evidence, by registered mail to the Tenant's new address, on December 10,

2008. The Landlord provided a registered mail receipt and tracking number for the registered mail package.

The Landlord testified that the Tenant vacated the rental unit on November 10, 2008 and left behind a number of personal items and furniture, including an above-ground swimming pool. The Landlord submitted photographs into evidence of the swimming pool and the Tenant's remaining abandoned property.

The Landlord submitted copies of estimates for the removal of a pool, couch, cupboards, basketball hoop, freezer, 2 desks, dresser, table and chairs, plus \$78.00 per hour for pool disassembly.

The Landlord testified that rent for the rental unit is \$1,300.00 per month and that the Tenant paid a security deposit in the amount of \$300.00 on May 20, 2003. The Landlord testified that the Tenant did not pay rent for the month of November, 2008. The Landlord testified that he was able to re-rent the rental unit on December 1, 2008.

The Landlord testified that the swimming pool and the remaining abandoned property have not been removed from the rental unit and that he intends to dispose of the items in accordance with the provisions of the Act.

Analysis

Based on the affirmed oral testimony of the Landlord I find that the Tenant was served with today's Application, the hearing package and copies of the evidence.

With respect to the Landlord's application to recover the cost for removing the Tenant's abandoned property, I find that this application is premature. The Landlord has not removed the items from the rental unit. I dismiss this portion of the Landlord's application with leave to re-apply.

I find that the Landlord has established his claim for unpaid rent in the amount of \$1,300.00 for the month of November, 2008.

With respect to recovering the filling fee for the cost of this Application, the Landlord has been partially successful and I allow this portion of his claim.

I find that the Landlord has established a total monetary claim of \$1,350.00, comprised of \$1,300.00 in rent arrears, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit of \$300.00, together with accrued interest in the amount of \$10.63 in partial satisfaction of the claim leaving a balance due to the Landlord of \$1,039.37.

Conclusion

I grant the Landlord a monetary order under section 67 of the *Act* for \$1,039.37. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

The Landlord's application for recovery of the cost for removing the Tenant's abandoned property is dismissed, with leave to re-apply.

February 3, 2009
