



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served on the Tenant on January 20, 2009. 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.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; 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 Landlord submitted a tenancy agreement that shows that this tenancy began on August 01, 2007; that the Tenant agreed to pay a \$20.00 fee whenever his rent is late; and that the Tenant paid a security deposit of \$425.00 on July 04, 2007.

The Agent for the Landlord stated that the Tenant is required to pay monthly rent of \$845.00 on the first day of each month, and that the Tenant did not pay rent for January of 2009.

The Agent for the Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent was posted on the front door of the rental unit on January 05, 2009. The Notice 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 pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice. The Agent for the Landlord stated that she believes the Tenant vacated the rental unit on January 31, 2009.

The Agent for the Landlord stated that the Tenant also owes a late fee of \$20.00 for paying his rent late in January.

Analysis

In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy, pursuant to section 46 of the *Act*, and that the Tenant vacated the rental unit on January 31, 2009.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$845.00 for January of 2009, and that the Landlord is entitled to compensation in that amount. As the Tenant agreed, in writing, to pay a late fee of \$20.00 whenever he is late paying his rent, I also find that the Landlord is entitled to collect a \$20.00 late fee for not paying rent on time on January 01, 2009.

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.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of \$434.58, in partial satisfaction of the monetary claim.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$915.00, which is comprised on \$845.00 in unpaid rent, a \$20.00 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 \$434.58, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$481.42. 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: March 2, 2009
