



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent as well as to recover the filing fee for this proceeding.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?

Background and Evidence

This tenancy started on May 1, 2007 and ended on March 31, 2008. Rent was \$1,450.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$750.00 some time prior to the beginning of the tenancy.

The Landlord claims that the Tenant agreed to pay March 2008 rent in instalments of \$200.00 but after her first payment she failed to make any further payments. The Tenant admitted that there were arrears of rent for March 2008 but said the Landlord agreed to apply her security deposit in partial payment of rent for March. The Landlord denied this and said instead that the Tenant's security deposit was applied to February 2008 rent. Both parties agree that neither of them gave their written authorization to apply the security deposit to rent.

The Landlord said she did not keep a ledger or statement of account showing rent charges payable and when payments were made by the Tenant. However, in support of her position, the Landlord relied on an undated letter from the Tenant which said in part "here is a cheque for ½ of February rent. I'd be happy to bring the cash to you tomorrow after work...please call me tomorrow." The Landlord claimed that the Tenant never paid the other ½ of February rent. The Tenant claimed that she did pay the other ½ of February 2008 rent in cash. The Landlord also relied on another undated letter from the Tenant that said "here is a cheque to replace the returned cheque plus charges." The Landlord claimed that the Tenant had a number of returned cheques.



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Analysis

In this case, the Landlord is alleging that rent of \$1,250.00 is unpaid for March 2008. Consequently, the Landlord bears the burden of proof or must show on a balance of probabilities that this amount of rent was not paid. The Tenant says that Landlord agreed to apply the security deposit to March 2008 rent but the Landlord says it was applied to February 2008 rent. Given the contradictory evidence of the parties and in the absence of any reliable corroborative evidence (such as an account ledger or other financial documents) to resolve this contradiction, I find that there is insufficient evidence to show that rent is outstanding in the amount of \$1,250.00. In particular, I find that the 2 letters relied on by the Landlord are not helpful to her position because they are undated and are so general that they could also support the Tenant's position.

As the Tenant admitted that \$500.00 is still outstanding for March 2008 rent, I find that the Landlord is entitled to that amount as well as to her \$50.00 filing fee for this proceeding.

Conclusion

A monetary order in the amount of **\$550.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid, the order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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*.

Dated: June 11, 2009.

Dispute Resolution Officer