

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNDC, FF

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.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord gave affirmed testimony at the Hearing and the Hearing proceeded on its merits.

Preliminary Matter

At the onset of the Hearing the Landlord withdrew his application against the Tenant ARI, and proceeded against the Tenant BIS only.

Issues to be Decided

This is the Landlord’s application for a monetary order for unpaid rent for the months of August and September, 2008, and to recover the filing fee for the cost of the application from the Tenant.

Background and Evidence

The Landlord testified that he mailed the Tenant the Notice of Hearing documents and amended Application for Dispute Resolution, by registered mail to the Tenant’s new address, on March 15, 2009. The Landlord provided a tracking number for the registered mail documents.

The Landlord had originally sought, and was awarded, monetary orders regarding this tenancy. However, the Landlord named the Tenants incorrectly in his application by reversing the given names and the surnames of the Tenants, and therefore the Orders were unenforceable in Small Claims Court. This is the Landlord's fresh application for a monetary order, naming the Tenant with his correct legal name.

The Tenancy started on March 1, 2008 and ended on September 30, 2008. The monthly rent was \$950.00 per month, due on the first day of each month. In addition, the Landlord testified that the Tenant was responsible for utilities in the amount of \$150.00 per month.

The Landlord testified that the Tenant did not pay rent or utilities for the months of August and September, 2008. The Landlord testified that, prior to appearing in Small Claims Court, the Tenant had provided a cheque dated October 24, 2008, in the amount of \$2,300.00 for rent/utility arrears together with the filing fees awarded by the previous monetary orders, but the cheque was returned to the Landlord by the bank. The Landlord provided a copy of the cancelled cheque into evidence.

Analysis

I accept the Landlord's evidence that the Tenant was served with the Notice of Hearing documents by registered mail. Pursuant to Section 90 of the Act, service in this manner is deemed to be effective 5 days after mailing the documents. Despite being served with the documents, the Tenant failed to appear and the Hearing proceeded in his absence.

Based on the testimony of the Landlord, and with no oral or written evidence to the contrary from the Tenant, I find the Landlord has established a monetary order for unpaid rent and utilities for the months of August and September, 2008, in the amount of \$2,200.00. The Landlord has been successful in his application and is entitled to recover the cost of the filing fee from the Tenant BIS.

The Landlord's application against the Tenant ARI is dismissed as withdrawn, without leave to re-apply.

Conclusion

Pursuant to Section 67 of the Act, I grant the Landlord a monetary order in the amount of \$2,250.00. This order must be served on the Tenant BIS 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 against the Tenant ARI is dismissed as withdrawn, without leave to re-apply.

June 8, 2009
