



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, MNDC, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each Tenant via registered mail at the service address noted on the Application, on April 06, 2009. Two Canada Post receipts, with tracking numbers, corroborate this statement. The Landlord submitted documentation from Canada Post that indicates that one of the packages was delivered on April 09, 2009 and the other was delivered on April 26, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants 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, for loss of revenue, for costs associated to enforcing a writ of possession; 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 stated that this tenancy began on January 01, 2009 and that the Tenants were required to pay monthly rent of \$1,200.00.

The Agent for the Landlord stated that the Tenants only paid \$600.00 in rent in February of 2009, leaving a balance owing of \$600.00. He stated that they did not pay any rent for March or April, leaving an outstanding balance of \$3,000.00.

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The Agent for the Landlord stated that he served the Tenants with a Ten Day Notice to End Tenancy for Unpaid Rent on February 10, 2009, and that he obtained an Order of Possession on the basis of that Notice on March 17, 2009. He stated that the Tenants did not vacate the rental unit after being served with the Order of Possession so he was forced to obtain a Writ of Possession. He stated that the Tenants did not vacate the rental unit until approximately April 15, 2009.

The Agent for the Landlord stated that he was unable to advertise the rental unit until after the Tenants vacated the rental unit because he was unsure of when the rental unit would be vacated. He stated that he did advertise the rental unit once it had been vacated. He stated that he was able to locate a new tenant for the lower portion of the residential complex for May 01, 2009, at a monthly rate of \$400.00. He stated he was unable to locate new tenants for the upper portion of the residential complex, and he is seeking compensation, in the amount of \$800.00, in compensation for the loss of revenue he experienced.

The Landlord is seeking compensation, in the amount of \$111.00, for the cost of filing for a Writ of Possession.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement with the Landlord, which required them to pay monthly rent of \$1,200.00.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants failed to pay rent, in the amount of \$3,000.00 for the months of February, March, and April of 2009. As the Tenants are obligated to pay rent, pursuant to section 26(1) of the *Act*, I find that the Tenants owe the Landlord \$3,000.00.

I find that the Tenants did not comply with the *Act* when they did not vacate the rental unit after being served with the Notice to End Tenancy and the Order of Possession. I find that the Tenants' failure to vacate the rental unit until approximately April 15, 2009 prevented the Landlord from finding new tenants for the upper portion of the rental unit for May 01, 2009, as the Landlord did not have reasonable notice that the rental unit would be vacated prior to that date. I find that the Landlord is therefore entitled to compensation for loss of revenue from May 01, 2009, in the amount of \$800.00.

I further find that the Tenants failure to vacate the rental unit after being served with the Notice to End Tenancy and the Order of Possession resulted in the Landlord incurring

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the expense of filing for a Writ of Possession, which was \$111.00. As the Landlord incurred this expense because the Tenants failed to comply with the Act, I find that the Tenants must compensate the Landlord for this expense.

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 \$3,961.00, which is comprised of \$3,000.00 in unpaid rent; \$800.00 in compensation for loss of revenue; \$111.00 in expenses for the cost of filing for a Writ of Possession; 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 \$3,961.00. 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.

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: July 07, 2009.

Dispute Resolution Officer