

Dispute Codes:

OPC, MNR, 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.

This is the Landlord’s application for an Order of Possession for Cause; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenants.

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

Preliminary Matter

At the onset of the Hearing, the Landlord testified that the Tenants vacated the rental unit in June, 2009. Therefore, the Landlord withdrew her application for an Order of Possession.

Issues to be Decided

- Is the Landlord entitled to a monetary order?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenants?

Background and Evidence

The Landlord testified that a Dispute Resolution Hearing was scheduled on June 3, 2009, via telephone conference regarding this Tenancy. She had attempted to call in to the number she was given, but was not successful. The Tenants did not attend the June 3, 2009 Hearing. As neither party signed into the Hearing on June 3, 2009, the Dispute Resolution officer dismissed the Landlord’s application with leave to reapply.

On June 4, 2009, the Landlord re-filed her original Application and paid the application fee.

The Landlord testified that she personally served the Tenant RB with the Notice to End Tenancy for Cause, on April 16, 2009, at the rental unit.

On June 5, 2009, the Landlord mailed the Tenants the Notice of Hearing documents to the rental unit, by registered mail. She mailed both Tenants' documents in the same envelope, addressed to the male Tenant. The Landlord testified that the Tenants still resided at the rental unit at that time. The Landlord provided a registered mail receipt and tracking number for the documents.

Rent for the rental unit was \$1,100.00 per month, due on the first day of each month. The Landlord testified that the Tenants were in arrears of rent in the amount of \$750.00 for the month of March, 2009, and in arrears of rent in the amount of \$1,100.00 for each of the months of April, May and June, 2009.

The Landlord testified that the Tenants did not return their keys to the rental unit, and that they still are in possession of the key to the mailbox, which is being emptied on a regular basis.

Analysis

Based on the affirmed testimony of the Landlord, and in the absence of testimony from the Tenants, I am satisfied that the Tenants were duly served with the Notice to End Tenancy on April 16, 2009. The Tenants did not file to dispute the Notice, and therefore, pursuant to Section 47(5) of the Act the Tenants are deemed to have accepted that the tenancy ended on May 31, 2009. The Landlord is at liberty to change the locks on the rental unit and the mail box to the rental unit.

I accept the Landlord's testimony that she served the Tenant RB with the Notice of Hearing documents, by registered mail. I do not find that the Tenant VB was served with the Notice of Hearing, and therefore the Landlord's claim against the Tenant VB is dismissed without leave to reapply.

I accept the testimony of the Landlord that the Tenants did not pay rent for the months of March, April and May, 2009. The Tenants did not vacate the rental unit until some

time in June, 2009, and therefore the Landlord is entitled to claim for loss of rent for the month of June in the amount of \$1,100.00 against the Tenant RB.

The Landlord has been successful in her application and is entitled to recover the cost of the filing fee from the Tenant RB.

The tenancy agreement makes note of a security deposit in the amount of \$550.00. The Landlord did not apply against any security deposit that may have been paid by the Tenants, and therefore the security deposit remains available for application to both parties, in accordance with the Act.

The Landlord has established a monetary claim against the Tenant RB, as follows:

Unpaid rent for March, April and May, 2009	\$2,950.00
Loss of rent for June, 2009	\$1,100.00
Filing fee	50.00
TOTAL AMOUNT DUE TO THE LANDLORD	\$4,100.00

Conclusion

The Landlord's application for an Order of Possession is dismissed without leave to reapply.

The Landlord is at liberty to change the locks on the rental unit and the rental unit's mailbox.

Any security deposit paid by the Tenants to the Landlord remains available for application to both parties, in accordance with the Act.

I HEREBY FIND in favor of the Landlord's monetary claim in the amount of \$4,100.00 against the Tenant RB. The monetary Order must be served on the Tenant RB and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.