



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, MNDC. OP, RR, CNR, FF

Introduction

This was a cross-application hearing.

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, a monetary Order for unpaid rent and to recover the filing fee from the Tenants for the cost of this Application for Dispute Resolution.

The Tenants made Application for Dispute Resolution to cancel a 10 Day Notice to End Tenancy for Unpaid rent, that the Tenants be allowed to make repairs and to recover the filing fee for the Landlord for the cost of the Application for Dispute Resolution.

The Landlord provided affirmed testimony that on November 6, 2009 she attended at the rental unit and provided each of the Tenants with copies of the Application for Dispute Resolution and Notice of Hearing. The Landlord stated that both Tenants came to the door of the rental unit and accepted the documents.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenants did not appear at the hearing.

Preliminary Matter

In the absence of the Tenants their Application for Dispute Resolution is dismissed without leave to reapply.

The Landlord withdrew the portion of her Application requesting an Order of possession as the Tenants have moved out and the Landlord has possession of the rental unit.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent?

Is the Landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement required the Tenants to pay monthly rent of \$1,050.00 due on the first day of the month.

The Landlord testified that the Tenants paid \$313.00 on October 5, 2009 and did not pay November rent. The Landlord stated that on October 15, 2009 she issued a 10 Day Notice for Unpaid Rent. The Landlord testified that the Tenants moved out of the rental unit some time during the two weeks following service of notice of this hearing to the Tenants.

The Landlord testified that it was not until approximately November 20 that she became aware that the Tenants may have vacated the rental unit and that she was able to take possession of the rental unit on November 27, 2009.

The Landlord stated that she does not have plans to rent and will be selling the home.

The Landlord stated that the Tenants owe \$737.00 for October rent and \$1,050.00 for November. The Landlord stated that she was not certain she would be entitled to loss of December revenue.

Analysis

In the absence of evidence to the contrary and in the absence of the Tenants, I find that the Tenants have not paid rent in the amount of \$1,787.00 for October and November 2009, and that the Landlord is entitled to compensation in that amount. I dismiss without leave to reapply the portion of the Application requesting compensation for December rent revenue loss as the Landlord did not plan to re-rent the home and, therefore, has not suffered a loss.

I find that the Landlords 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 \$1,837.00, which is comprised of \$1,787.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution and I grant the Landlord a monetary Order in that amount. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The Tenant's Application for Dispute Resolution is dismissed without leave to reapply.

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: December 02, 2009.

Dispute Resolution Officer