



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for unpaid rent, to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution

The landlord provided affirmed testimony that on August 31, 2009, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail and received on September 1, 2009. A Canada Post tracking number was provided as evidence of service. The landlord stated that approximately 10 days prior to the end of August the tenant had emailed him a forwarding address, which he then used for service.

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

Preliminary Matter

At the start of the hearing the landlord stated that he had served the tenant with evidence relate to a claim for damages. However, the landlord has not amended the application for dispute resolution to include an increased monetary claim or the inclusion of a claim for damages. The landlord is at liberty to submit an application for dispute resolution claiming losses not considered during this hearing.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$2,125.00 in unpaid rent?

May the landlord retain the deposit paid in partial satisfaction of the monetary claim?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement required the tenant to pay monthly rent of \$850.00. The tenant paid a security deposit of \$412.50 on April 1, 2008.

The landlord testified that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent with an effective date of August 5, 2009. The landlord stated that he had possession of the rental unit by August 17, 2009, and rented the unit again September 1, 2009. The landlord testified that the tenant did not pay rent for June, July and that he is claiming rent for one half of August, 2009.

Analysis

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$2,125.00 for June, July and one half of August, 2009, and that the landlord is entitled to compensation in that amount.

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.

I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of \$417.15, in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$2,175.00, which is comprised of \$2,125.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$417.15, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$1,757.85**. 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: December 22, 2009.

Dispute Resolution Officer