



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, 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, 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 17, 2009 she had another occupant serve the tenant with Notice of this hearing. The landlord provided a copy of a certificate of service signed by the occupant indicating that he did serve the tenant with documents on April 18, 2009. This service pre-dates the date on the Notice of Hearing; August 13, 2009.

The landlord's witness was called into the hearing and provided affirmed testimony that he did personally serve the tenant with the hearing documents on September 18, 2009 at the rental unit at 5:45 pm. The witness stated that they were in the laundry room when he served the tenant. The landlord submitted a copy of a certificate of service signed by this witness, confirming service; however this document did not indicate how service was completed. The testimony provided by the witness confirmed the method of service.

Section 59 of the Act requires service of an application for dispute resolution within three days of making it. The landlord has not served the tenant within three days; however, I find that the tenant has been sufficiently served and has not been prejudiced, as service occurred on September 18, 2009 for a hearing scheduled more than two months later.

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.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The landlord provided as evidence a copy of a dispute resolution hearing decision that I issued on April 8, 2009. As a result of that direct request proceeding (file 732700) I determined that the tenancy commenced on November 1, 2008, rent was \$625.00 per month and that the tenant had failed to pay rent for December 2008 and January and February 2009. The landlord was provided with an Order of possession and a monetary order for unpaid rent from December 2008 to February 2009 inclusive.

My decision issued on April 8, 2009 dismissed without leave the portion of the landlord's application for unpaid rent claimed from November 2008 and March 1, 2009 to April 2, 2009 inclusive. This decision was based upon a lack of evidence submitted by the landlord.

The landlord is now claiming the balance of unpaid rent for November 2008 and April 2009 to October 2009 inclusive. The landlord sold the house and ceased being the landlord effective October 31, 2009. The landlord testified that the tenant has never paid her any rent or deposit.

Analysis

In the absence of evidence to the contrary and, in the absence of the tenant, I find that the tenant has not paid rent in the amount of \$3,750.00 for May 2009 to October 2009 inclusive and for 28 days of April 2009 in the sum of \$575.00, and that the landlord is entitled to compensation in that amount.

As the balance of the landlord's claim for November 2008 unpaid rent and March 2009 unpaid rent has been previously decided; the claim for those months has not been considered and are dismissed without leave to reapply.

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 \$4,375.00, which is comprised of \$4,325.00 in unpaid rent 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 in the sum of **\$4,375.00**. 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.

The claim for compensation for unpaid rent from November 2008 and March 2009 to April 2, 2009 has been previously decided and on April 8, 2009 was 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 09, 2009.

Dispute Resolution Officer