



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, OP, 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 an Order of possession, a monetary Order for unpaid rent, to retain 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 February 26, 2010 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and copy of the receipt was provided as evidence of 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 withdrew the request for an Order of possession, as the tenant has moved out.

Issue(s) to be Decided

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

Is the landlord entitled to retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

This tenancy commenced on June 1, 2008. A deposit in the sum of \$450.00 was paid on May 5, 2008. Rent was \$895.00 per month.

On January 20, 2010, the landlord personally served the tenant with Notice to End Tenancy. The tenant returned the keys to the unit on March 19, 2010.

The landlord did not receive any rent payments from January to March, 2010, inclusive and is claiming compensation in the sum of \$2,685.00.

The landlord requested costs for parking in the sum of \$40.00 per month from January to March, 2010, inclusive. When the tenant returned the parking remote it was damaged and must be replaced at a cost of \$60.00.

Analysis

Based upon the testimony of the landlord and, in the absence of the tenant at this hearing, I find that the landlord is entitled to compensation for unpaid rent for January to March, 2010, inclusive. The tenant failed to move out of the rental unit by the effective date of the Notice and remained in the unit beyond March 1, 2010.

In relation to parking costs, the landlord did not have a copy of the original written tenancy agreement and could not provide assurance that parking costs formed part of the tenancy agreement; therefore, I dismiss the claim for parking fees.

In relation to the parking remote; the Application did not include a claim for this item, and was not amended to include this item, therefore, I have not considered the cost related to the parking remote.

The landlord is holding a deposit plus interest in the sum of \$455.00 and I find that the landlord may retain this amount in partial satisfaction of the claim for compensation.

I find that the landlord's application has merit, and that the landlord entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the landlord established a monetary claim, in the amount of \$2,735.00, which is comprised of \$2,685.00 in unpaid rent from January to March, 2010, inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will retain the deposit plus interest in the sum of \$455.00 and based on these determinations I grant the landlord a monetary Order for the balance in the sum of **\$2,230.00.**

The claim for parking costs is dismissed.

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: April 13, 2010.

Dispute Resolution Officer