

DECISION

Dispute Codes OPR, MNR, MND, FF

Introduction

The hearing that was due to be held on May 10, 2010 was reconvened to today's date to allow the Applicant to re-serve the documents on the Respondent and to provide evidence of this service. The hearing was reconvened and dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent and utilities, and to recover the cost of the filing fee. At the outset of the hearing the landlord requested to amend his application to keep the tenants security deposit. The landlord also withdrew his application for an Order of Possession and for a Monetary Order for damage to the rental unit, site or property.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; they were handed to the male tenant in person on February 07 and again on June 13, 2010. The landlord's witness confirms service of the first hearing package and the landlord served the tenant with the second hearing package. The tenant is deemed to be served the hearing documents on June 13, 2010. The landlord had named two Parties on his application but was unable to serve the female tenant with Notice of this hearing. Consequently this hearing deals only with the male tenant named on the application.

The landlord and his witness to the service of the hearing documents appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

Background and Evidence

This month to month tenancy started on June 01, 2008 and ended when the tenants vacated the rental unit on January 31, 2010. Rent for this unit was \$1,300.00 per month and was due on the first of each month. The tenants paid a security deposit of \$650.00 on May 26, 2008.

The landlord testifies that the tenants owe a balance of rent for May, 2009 of \$575.00; for June, 2009 of \$1,000.00; for December 2009 of \$500.00. The tenants were served with a One Month Notice to End Tenancy because the tenants are repeatedly late paying rent on December 30, 2009. The Notice indicates that the tenant had ten days to dispute the Notice or the tenancy would end on January 29, 2010. The tenants did not dispute the notice and vacated the rental unit on January 31, 2010. The tenants also failed to pay rent for January, 2010 of \$1,300.00. The landlord has requested a Monetary Order to recover the outstanding rent of \$3,375.00.

The landlord testifies that the tenants owe utilities for June, 2009 of 73.24; for September, 2009 of \$162.14 and for December, 2009 of \$172.75 to a total sum of \$408.13. The landlord seeks to keep the security deposit of \$650.00 and accrued interest of \$5.86 in partial payment towards the rent and utility arrears.

The landlord has provided in evidence a copy of the One Month Notice, letters to the tenants regarding the rent arrears, a copy of the rent ledger and the utility bills.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find the landlord is entitled to recover the sum of **\$3,375.00** in unpaid rent for May, 2009, June, 2009, December, 2009 and January, 2010 pursuant to section 67 of the Act. I further find the landlord is entitled to recover unpaid utilities of **\$408.13** pursuant to section 67 of the Act.

The Residential tenancy Policy Guidelines #13 documents the rights and responsibilities of co-tenants. This states that co-tenants are jointly and severally liable for any debts or damages relating to the tenancy, this means that the landlord can recover the full amount of rent or utilities from all or any one of the tenants. The responsibility falls on the tenants to apportion among themselves the amounts owed to the landlord. In this instance as the tenants did not provided the landlord with a forwarding address in writing the landlord was only able to serve the male tenant with Notice of this hearing. The tenant in question failed to appear at the hearing and a Monetary Order has been issued to the landlord to serve on this tenant.

I order the landlord pursuant to s. 38(4)(b) of the *Act* to keep the tenant's security deposit and accrued interest of \$655.86 in partial payment towards the rent and utility arrears. As the landlord has been successful in this matter, he is also entitled to recover his \$50.00 filing fee for this proceeding pursuant to section 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Rent arrears	\$3,375.00
Filing fee	\$50.00
Subtotal	\$3,833.13
Less security deposit and accrued interest	(-\$655.86)
Total amount due	\$3,177.27

Conclusion

A Monetary Order in the amount of **\$3,177.27** has been issued to the landlord and a copy of it must be served on the tenant. If the amount of the order is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: July 02, 2010.

Dispute Resolution Officer