



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, O

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim; and to recover the filing fee from the tenant for the cost of this application.

Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on October 18, 2010, the tenant did not attend the conference call hearing.

The landlord attended the hearing, gave affirmed testimony, and provided evidence in advance of the hearing. All information and testimony has been reviewed and is considered in this Decision.

During the course of the hearing, the landlord testified that the tenant vacated the rental unit on or about October 2, 2010, and therefore an Order of Possession is not required.

Issues(s) to be Decided

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

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

This tenancy began as a fixed term tenancy on February 9, 2010, expired on July 9, 2010, and then reverted to a month-to-month tenancy thereafter. A copy of the tenancy agreement was provided in advance of the hearing and states that rent in the amount of \$1,050.00 is payable on the 1st day of each month. The landlord also collected a security deposit from the tenant at the outset of the tenancy in the amount of \$525.00.

The tenant failed to pay rent in the months of August and September, 2010, and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on September 15, 2010. That notice, a copy of which was provided in advance of the hearing states that the tenant failed to pay rent in the amount of \$2,100.00 that was due on September 1, 2010. The notice is dated September 15, 2010 and has an expected date of vacancy of September 25, 2010. The tenant further failed to pay rent for the month of October, 2010. The landlord claims 3 month's rent from the tenant and an order permitting him to retain the security deposit in partial satisfaction of that claim.

The landlord further testified that the tenant provided him with a forwarding address in writing and an address for his place of employment. The landlord provided a copy of that note in advance of the hearing.

Analysis

The *Residential Tenancy Act* provides that a document served by registered mail is deemed to be served on the 5th day after it is mailed. I accept the evidence of the landlord that the Landlord's Application for Dispute Resolution and notice of hearing documents were sent by registered mail to the tenant on October 18, 2010 and therefore are deemed to have been served on October 21, 2010.

As for the monetary order, I find that the landlord has established a claim for \$3,150.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the landlord's application for an Order of Possession is hereby dismissed without leave to reapply.

I order that the landlord retain the security deposit and interest of \$525.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,675.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: November 12, 2010.

Dispute Resolution Officer