



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, an Order of Possession for Cause, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, 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. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each Tenant via registered mail at the service address noted on the Application, on November 27, 2010. Canada Post documentation was submitted that corroborates this statement. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent and/or loss of revenue; to keep all or part of the security deposit; and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord stated that this tenancy began on February 01, 2010; that the Tenant is required to pay monthly rent of \$1,250.00 on the first day of each month; and that the Tenant paid a security deposit of \$625.00.

The Agent for the Landlord stated that the Tenants did not pay any rent for November of 2010.

The Landlord submitted a copy of a Notice to End Tenancy for Unpaid Rent that was served on the Tenants that declared the Tenants must vacate the rental unit by November 14, 2010. The Landlord submitted a copy of a Notice to End Tenancy for Cause that was served on the Tenants, which declared the Tenants must vacate the rental unit by December 31, 2010. The Agent for the Landlord stated that the Tenants vacated the rental unit on November 30, 2010.

The Landlord is seeking compensation for loss of revenue from December of 2010. The Agent for the Landlord stated that the Landlord was not able to advertise for new Tenants for December 01, 2010 as the Landlord was not certain when the Tenants would vacate the rental unit, given that they had not vacated the rental unit on the declared effective date of the Ten Day Notice to End Tenancy. The Agent for the Landlord does not know what efforts were made to find a new tenant for December 15, 2010.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants entered into a tenancy agreement with the Landlord that requires the Tenants to pay monthly rent of \$1,250.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants have not paid rent for November of 2010. As they are required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenants must pay \$1,250.00 in outstanding rent to the Landlord.

I find that the Tenants did not comply with the *Act* when they did not vacate the rental unit on the effective date of the Ten Day Notice to End Tenancy. I find that the Tenants' actions prevented the Landlord from finding new tenants for December 01, 2010, as the Landlord did not have reasonable notice that the rental unit would be vacated by that date. I find that the Landlord is therefore entitled to compensation for loss of revenue from December 01, 2010 to December 14, 2010, in the amount of \$625.00. I dismiss the Landlord's application for compensation for loss of revenue from December 15, 2010 to December 31, 2010, as the Landlord submitted insufficient evidence to show that the Landlord has made reasonable efforts to find new tenants for December 15, 2010.

I find that the Landlord's application has merit and 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 \$1,925.00, which is comprised of \$1,250.00 in unpaid rent, \$625.00 in loss of revenue, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, the Landlord is hereby authorized to retain the Tenant's security deposit of \$625.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of 1,300.00. In the event that the Tenants do 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 14, 2010.

Dispute Resolution Officer