



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, 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 for Unpaid Rent, a monetary Order 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 November 19, 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 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 Matters

The landlord confirmed that the tenancy vacated the rental unit on or about November 27, 2010. The notice ending issued included an effective date of December 1, 2010, and the fixed term tenancy agreement was to end on the same date.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement required the tenant to pay \$1,300.00 per month rent; the landlord testified rent was due on the first day of the month, as this term was not indicated on the written agreement submitted as evidence.

The landlord sent the tenant notice of a move-out condition inspection for December 1, 2010, and when the landlord arrived they established that the tenant had moved out. A realtor with whom the landlord contracted to sell the home lived in the area and confirmed that he saw a moving truck in the driveway of the unit on November 27, 2010.

The tenant paid October rent claimed by the landlord but has failed to pay November rent owed.

The landlord is holding a deposit in the sum of \$650.00 that was paid on June 1, 2010. The tenant has yet to provide a forwarding address in writing.

Analysis

I find that the tenant was served with notice of this hearing prior to the date that she vacated the unit. The notice ending tenancy did not require vacant possession until December 1 and the tenant moved prior to the effective date without informing the landlord.

I find, in the absence of the tenant, who was served with notice of this hearing, that the landlord is entitled to unpaid November rent in the sum of \$1,300.00.

Section 72(2) of the Act provides a dispute resolution officer with the ability to deduct any money owed by a tenant to a landlord, from the deposit due to the tenant. Therefore, I find that the landlord may retain the tenant's security deposit, in the amount of \$650.00, in partial satisfaction of the monetary claim.

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 \$1,350.00, which is comprised of November, 2010, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution. The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$650.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$700.00. 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.

Dated: December 08, 2010.

Dispute Resolution Officer