



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, OPR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for an Order of possession, compensation for unpaid rent, damage or loss under the Act, 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 November 10, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the tenant at the rental unit address at 6 p.m.

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

As the tenant moved out on November 14, 2010, the landlord no longer required an Order of possession.

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

The tenancy commenced on May 1, 2009, rent was \$1,800.00 per month due on the first day of the month. A deposit in the sum of \$900.00 was paid on May 1, 2009.

The landlord provided a copy of the tenancy agreement signed by the parties and a Notice ending tenancy for unpaid rent issued on November 2, 2010, for unpaid November, 2010, rent in the sum of \$1,800.00.

The tenant did not pay November rent and she moved out mid-month which denied the landlord with the opportunity to locate a tenant for December 1, 2010. The landlord began advertising as soon as the tenant vacated but has had little response to his advertisement; the landlord is finding the market has slowed.

The landlord has claimed loss of December rent revenue in the sum of \$1,800.00.

Analysis

I find, based on the evidence before me and 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 \$1,800.00.

I find that the tenant's failure to pay November rent within 5 days of receiving the notice issued ending the tenancy resulted in a loss to the landlord who was not provided with adequate time to locate new occupants for the rental unit. Therefore, I find that the landlord is entitled to compensation for loss of December rent revenue in the sum of \$1,800.00.

I find that the tenancy ended when the landlord was able to take possession of the unit, on November 14, 2010.

The landlord is entitled to retain the deposit held in trust in the sum of \$900.00, in partial satisfaction of the claim for compensation.

I find that the landlord's application has merit, and I find 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 \$3,650.00, which is comprised of November 2010, rent; loss of December, 2010, rent revenue 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 in the sum of \$900.00 in partial satisfaction of the claim for compensation.

Based on these determinations I grant the landlord a monetary Order for **\$2,750.00**. 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.

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 15, 2010.

Dispute Resolution Officer