



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call to deal with the landlords' application for a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of this application.

One of the named landlords attended the conference call hearing however, despite being served personally with the Landlord's Application for Dispute Resolution and notice of hearing documents on September 15, 2010, the tenant did not attend.

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

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord testified that the parties entered into a fixed term tenancy to commence on August 15, 2010 and to expire on August 31, 2011, however the tenant did not move into the rental unit.

A tenancy agreement was signed by the parties on August 10, 2010, a copy of which was provided in advance of the hearing. Rent in the amount of \$790.00 per month was payable in advance on the 1st day of each month. The security deposit was \$395.00, and the landlord was to collect \$389.55 for pro-rated rent for the month of August, 2010. The tenant gave the landlord a cheque in the amount of \$1,574.55 to cover the pro-rated amount of rent for August, 2010, the security deposit and September's rent. The landlord further testified that the tenant asked the landlord to delay cashing the cheque because he was having financial difficulties but signed a Promissory Note to pay \$1,574.55 by September 2, 2010. The landlord has also provided a copy of the Promissory Note in advance of the hearing however it is not signed by the tenant.

The landlord further testified that the parties completed a move-in condition inspection report on August 16, 2010, a copy of which was provided in advance of the hearing, and the keys to the rental unit were provided to the tenant at that time.



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No payment was received by the landlords by September 8, 2010, the tenant had not moved into the rental unit by that date, and the landlord emailed the tenant asking about the rent and his intentions. A series of email exchanges took place on that date and the tenant returned the keys to the landlords on September 10, 2010.

The landlords advertised the unit for rent again on September 11, 2010 on Craig's List. The landlord testified that they tried advertising in the newspapers in the past but those advertisements did not result in successful rentals, so they advertised only on Craig's List once the keys were returned. The landlord also testified that they missed the beginning of the school year, and had difficulty re-renting the unit. The rental unit was re-rented on November 1, 2010 for \$740.00 per month.

The landlords claim \$389.55 for pro-rated rent for August, 2010, \$1,580.00 for September and October rent, \$395.00 for the security deposit, and \$50.00 for recovery of the filing fee, for a total of \$2,414.55.

Analysis

I find that a tenancy agreement existed between the parties as stated by the landlord and evidenced by the documentation provided in advance of the hearing. I further find that the tenant was bound by the agreement and failed to fulfill his obligations under the agreement. Therefore, I find that the landlord has established a claim for \$389.55 for pro-rated rent for August, 2010, \$1,580.00 for rent for September and October, 2010, for a total of \$1,969.55. The landlord is also entitled to recovery of the \$50.00 filing fee. The landlord is not entitled to the payment of the security deposit because that amount would be held in trust by the landlord to return to the tenant.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlords in the amount of \$2,019.55. This order may be filed in the Provincial Court of British Columbia, Small Claims division for enforcement 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: January 11, 2011.

Residential Tenancy Branch