



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for a monetary order for unpaid rent or utilities, 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 tenants 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 September 16, 2010, the tenants did not attend the conference call hearing. The landlord attended, and her husband attended for the purpose of proving service of the documents upon the tenants. The landlord gave affirmed testimony and provided an evidence package in advance of the hearing.

All testimony and evidence received has been reviewed and is considered in this Decision.

Issue(s) to be Decided

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

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

Background and Evidence

This month-to-month tenancy began on November 1, 2009 and ended on September 5, 2010. Rent in the amount of \$1,050.00 per month was payable in advance on the last day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$525.00.

The landlord testified that the tenants had always been prompt with rent payments until August, 2010. The male tenant left the landlord a note dated August 5, 2010 stating

that he was not able to pay the rent on time and he had been working a lot of overtime. The landlord provided a note to the male tenant on the same paper dated August 16, 2010 stating that she was going away for 2 weeks and asked that he pay her sister when he had the rent money. A copy of those notes was provided in advance of the hearing.

The landlord and her husband went away, and when they returned and attended the rental unit to collect the rent on September 2, 2010, the tenants were in the process of moving out of the rental unit. The parties had a discussion, and the male tenant returned on September 5, 2010 to conduct the move-out condition inspection. The tenant signed the condition inspection report stating that he agreed to the landlord retaining the security deposit and wrote his forwarding address on that condition inspection report, a copy of which was provided in advance of the hearing. The landlord did not collect rent for August or September, 2010 from the tenants, and claims \$2,100.00 in addition to the \$50.00 filing fee.

Analysis

Firstly, I find that the landlord served the male tenant with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on September 16, 2010 at the address provided by the tenant, pursuant to Section 89 (1) (d) of the *Residential Tenancy Act*. I cannot make a finding that the landlord served the female tenant. The *Act* requires that where an applicant claims a monetary amount from a respondent, the applicant must serve each respondent.

The *Residential Tenancy Act* and the tenancy agreement require the tenants to pay rent on time, and require the tenants to give the landlord one month's notice of their intention to vacate the rental unit. Further, the *Act* requires that the tenants give that notice the day before rent is due under the tenancy agreement. I find that rent was due on the last day of each month, the tenants did not give the landlord any notice of their intention to move from the rental unit, and the tenants have failed to pay rent for the months of August and September, 2010. I therefore find that the landlord has established a claim for \$2,100.00 in unpaid rent against the male tenant only. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, 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 of the *Residential Tenancy Act* for the balance due of \$1,625.00. 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: January 19, 2011.

Residential Tenancy Branch