



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 28, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant’s absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on June 1, 2009 as a 1 year fixed term tenancy with an expiry date of May 31, 2010 and then the tenancy renewed as a month to month tenancy. Rent was \$870.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$435.00 on May 12, 2009. The tenancy ended on January 17, 2010.

The Landlord said that the Tenant had unpaid rent of \$663.25 for January, 2010. The Landlord continued to say the Tenant moved out January 17, 2010 and on February 2, 2010 the Tenant wrote the Landlord a note telling him to use her security deposit as partial payment for the unpaid rent. The Landlord retained the Tenant’s security deposit of \$435.00 and applied it to the unpaid rent of \$663.25. The Landlord said there is still \$228.25 of unpaid rent due and that is what he is applying for in this application.

Analysis

Section 26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has the right under this Act to deduct all or a portion of the rent.

I have reviewed the evidence and the Landlord's testimony and I find the Tenant does not have the right to withhold part of all of the rent for January, 2010. As well I accept the Landlord's evidence and testimony that the Tenant has \$228.25 of unpaid rent. Consequently, I find that the Landlord is entitled to recover of unpaid rent for January, 2010 in the amount of \$228.25.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

January, 2010 unpaid rent	\$ 228.25
Recover Filing Fee	<u>\$ 50.00</u>
Subtotal	\$ 278.25

Balance Owing	<u>\$ 278.25</u>
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Conclusion

A Monetary Order in the amount of \$278.25 has been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

Residential Tenancy Branch