



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony and provided an evidence package in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution, evidence package and notice of hearing documents by registered mail on April 15, 2011, the tenant did not attend.

At the outset of the hearing, the landlord's agent advised that the tenant is no longer residing in the rental unit, and therefore, the application for an Order of Possession is withdrawn.

All evidence and testimony provided 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 keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on March 1, 2010 and ended on or about April 12, 2011. She stated that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on April 1, 2011 which contained an effective date of vacancy of April 13, 2011, and she saw a moving truck at the rental unit on April 12, 2011.

Rent in the amount of \$914.00 per month was payable in advance on the last day of the previous month. On February 26, 2010 the landlord collected a security deposit from the tenant in the amount of \$457.00.

The tenant failed to pay rent when it was due for the month of April, 2011, and the landlord consequently served the notice to end the tenancy. The landlord claims \$914.00 for unpaid rent, and requests an order permitting the landlord to retain the security deposit in partial satisfaction of that claim.

The landlord further stated that there are damages to the rental unit, and provided some evidence of that in advance of the hearing. She further stated that the rental unit cannot be re-rented because it requires renovations due to the condition after the tenant moved out.

Analysis

In the circumstances, and in the absence of any evidence to the contrary, I find that the tenant moved from the rental unit as a result of being served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and therefore, the landlord's application for an Order of Possession is not required.

The landlord has not applied for a monetary order for damage to the unit, and therefore I cannot make an order with respect to damages. The landlord is at liberty to make another application for a monetary order for damages.

I find that the landlord has established a claim for unpaid rent, and I hereby order the landlord keep all of the security deposit in partial satisfaction of the claim, and the landlord is entitled to a monetary order for the balance of \$457.00. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby order the landlord to retain the security deposit of \$457.00 in partial satisfaction of the claim, and I grant the landlord a monetary order pursuant to Section 67 of the *Residential Tenancy Act* for the balance due of \$507.00. 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: May 10, 2011.

Residential Tenancy Branch