



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 for the cost of this application.

An Agent for the landlord company attended the conference call hearing and gave affirmed testimony. However, despite being served with the Landlord Application for Dispute Resolution and notice of hearing documents by registered mail on May 26, 2011, the tenant did not attend. The landlord testified that the application for dispute resolution was filed on May 25, 2011 and a copy with the notice of hearing were sent by registered mail to the rental unit on May 26, 2011 and provided a registration number provided by Canada Post. I therefore find that the tenant has been properly served.

The landlord's agent also testified that the tenant has vacated the rental property, and therefore the application for an Order of Possession is withdrawn.

At the outset of the hearing, the landlord's agent applied to amend the application to change the legal name of the landlord. That amendment was allowed, and the amended name of the landlord appears in the style of cause of 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 fixed term tenancy began on May 1, 2010 and expired on April 30, 2011 and then reverted to a month-to-month tenancy. Rent in the amount of \$870.00 was payable in advance on the 1st day of each month. On May 1, 2010 the landlord collected a security deposit from the tenant in the amount of \$435.00.

The landlord further testified that the tenant failed to pay rent when it was due for the month of May, 2011. The landlord had purchased the building on April 15, 2011 and the tenant had paid rent for the month of April, 2011 to the previous owner, but did not pay rent for the month of May, 2011 to the new owner. On May 2, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy of the notice was not provided in advance of the hearing, however the landlord's agent testified that it contained an effective date of vacancy of May 15, 2011, and the tenant vacated the rental unit on June 1, 2011.

The landlord claims \$870.00 for rent for the month of May, 2011 as well as \$870.00 for loss of revenue for the month of June, 2011 and \$50.00 for the cost of filing this application.

Analysis

In the circumstances, I find that the landlord's claim for unpaid rent for the month of May, 2011 has been established and the landlord is entitled to a monetary order in the amount of \$870.00.

With respect to loss of revenue for the month of June, 2011, I refer to the Residential Tenancy Policy Guideline which states that as a general rule, the landlord is entitled to a monetary order for loss of rent up to the earliest time that the tenant could have legally ended the tenancy. In this case, the tenant did not pay rent for May, 2011 and was served with a notice to end the tenancy by the landlord, and was deemed to have been served 3 days after posting it to the door of the rental unit, or on May 5, 2011. At the time that the notice was issued, served or deemed served, the tenant was not in a position to end the tenancy effective June 1, 2011 because the tenant would be required under the *Act* to provide notice to the landlord to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day that rent is payable under the tenancy agreement. Therefore, I find that the landlord has established a claim for loss of revenue in the amount of \$870.00.

The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the landlord's application for an Order of Possession for unpaid rent or utilities is hereby dismissed as withdrawn.

I order that the landlord retain the security deposit and interest of \$435.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the *Residential Tenancy Act* for the balance due of \$1,355.00. 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: July 6, 2011.

Residential Tenancy Branch