



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 in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Agent for the Landlord stated that he personally served the male Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on June 18, 2011. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the male Tenant did not appear at the hearing.

At the hearing the Agent for the Landlord asked to amend the Application for Dispute Resolution by removing the female Tenant as a respondent, as the Landlord has not been able to serve her with copies of the Application for Dispute Resolution and Notice of Hearing. The Application for Dispute Resolution has been amended as per this request, as it does not unduly prejudice the female Tenant.

At the hearing the Agent for the Landlord asked to amend the Application for Dispute Resolution by correcting the name of the Landlord, which he stated was entered in error on the Application. The Application for Dispute Resolution has been amended as per this request, as it does not unduly prejudice the male Tenant.

At the hearing the Agent for the Landlord asked to amend the Application for Dispute Resolution by including a claim for unpaid rent from July of 2011. In my view this amendment would be unfair to the Tenant, who may have elected to attend this hearing if he was aware the Landlord was seeking additional compensation. On this basis the Landlord's request to increase the amount of the monetary claim is being denied.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord stated that this tenancy began on February 11, 2006; that the Tenant was required to pay monthly rent of \$600.00 on the first day of each month; and that the Tenant paid a security deposit of \$600.00 on, or about, February 11, 2006.

The Agent for the Landlord stated that the Tenant still owes \$527.00 in rent for April of 2011, \$600.00 in rent for May of 2011, and \$600.00 in rent for June of 2011.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of June 20, 2011, was posted on the rental unit sometime in June of 2011. The Notice declared that the Tenant owed \$1,727.00 in rent that was due on June 01, 2011.

The Agent for the Landlord stated that the Tenants vacated the rental unit within the last five days.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$600.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant has not paid \$1,727.00 in rent that was due for April, May, and June of 2011. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$1,727.00 in outstanding rent to the Landlord.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,777.00, which is comprised of \$1,727.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Pursuant to section 72(2) of the Act, I authorize the Landlord to retain the Tenant's security deposit, in the amount of \$300.00, plus interest of \$10.45, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$1,466.55. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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 11, 2011.

Residential Tenancy Branch