



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes Tenant CNR,
Landlord OPR, MNR, MNDC, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent and compensation for damage or loss under the Act, regulations or tenancy agreement and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy.

Service of the hearing documents by the Landlord to the Tenant were done by registered mail on August 23, 2011 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlord were done by registered mail on August 18, 2011.

The Landlord confirmed that he received the Tenant's hearing packages.

The hearing started at 2:00 p.m. as scheduled, however by 2:10 p.m. the Tenant had not dialled into the conference call. In the absence of any evidence from the Tenant to support the application, the application is dismissed without leave to reapply.

Issues to be Decided

Landlord:

1. Is the Landlord entitled to an Order of Possession?
2. Is there unpaid rent and if so how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?
4. Has the Landlord had a loss or damage and if so how much?
5. Is the Landlord entitled to compensation for damage or loss?

Background and Evidence

This tenancy started in April, 2011 as a month to month tenancy. Rent was \$750.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit. The Landlord said the Tenant moved out on August 25, 2011. As a result of the Tenant moving out the Landlord said he is withdrawing his request for an Order of Possession.

The Landlord said that the Tenant did not pay rent of \$560.00 for June, 2011 and \$750.00 for July, 2011 when it was due and as a result, on July 22, 2011 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated July 22, 2011 to the Tenant. The Landlord continued to say the Tenant did not pay the rent for August, 2011 of \$750.00 and THE Tenant has two unpaid utility bills one for \$208.02 and one for \$156.65.

The Landlord also sought to recover the \$50.00 filing fee for this proceeding. The Landlord said his total claim is \$2,474.67.

Analysis

Section 26 of the Act says that 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 a right under the Act to deduct all or a portion of the rent.

The Tenant did not have the right under the Act to withhold part or all of the rent for June, 2011 in the amount of \$560.00, July, 2011 in the amount of \$750.00 and August in the amount of \$750.00, therefore I find in favour of the Landlord for the unpaid rent in the amount of \$2,060.00 for June, July and August, 2011. As well I accept the Landlord's testimony that the Tenant did not pay the utilities while in the rental unit and I find that the Tenant is responsible for the utility bills, as referred to in the shelter information form submitted by the Tenant. The unpaid utility amounts are \$208.02 and \$156.65.

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



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Rent arrears:	\$2,060.00	
Unpaid Utilities	\$ 364.67	
Recover filing fee	\$ 50.00	
Subtotal:		\$2,474.67
Balance Owing		\$ 2,474.67

Conclusion

A Monetary Order in the amount of \$2,474.67 has been issued to the Landlord. A copy of the Order must be served on the Tenant and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply.

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