



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting 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.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matter

The tenant stated that the female respondent moved out of the rental unit 1.5 years ago; the landlord was aware of this; however, did not confirm if the female had been removed from the tenancy agreement.

The tenant stated that he was only served with Notice of this hearing 3 days ago. The landlord had sent registered mail to the tenant at the rental unit address, on August 20, 2011. The tenant stated he required time to prepare for the hearing; that the mail did not arrive as registered and that he did not sign, accepting the mail. The tenant had arranged forwarding of his mail when he vacated the rental unit, but the landlord was not aware of this.

I determined that the hearing would proceed, as the landlord withdrew all of her claim except the request for unpaid August rent and the August late fee. The tenant acknowledged that he did not require time to respond to that portion of the claim.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and late fee?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on May 1, 2009; a deposit in the sum of \$347.50 was paid. Rent was \$715.00 due on the first day of each month.

The tenant confirmed he did not pay August, 2011 rent due and that he vacated the rental unit on the effective date of a 10 Day Notice ending tenancy served to him on August 2, 2011.

Clause 3 of the tenancy agreement submitted as evidence requires payment of a \$20.00 late rent fee; the landlord has requested compensation.

The landlord did not dispute the tenant's submission that they had agreed the tenant had given the landlord permission to retain the deposit toward rent owed.

The rental unit was occupied by new tenants on September 1, 2011.

Analysis

Based on the testimony of the tenant, I find that the tenant has not paid August, 2011, rent in the amount of \$367.50. The landlord has retained the \$347.50 deposit as part of August's rent due. The landlord did not dispute the tenant's submission that they had reached an agreement in relation to the disbursement of the deposit.

As provided by the tenancy agreement I find that the landlord is entitled to the August late rent payment fee in the sum of \$20.00.

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 \$437.50, which is comprised of \$367.50 August, 2011, rent; \$20.00 August late rent fee and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$437.50. In the event that the tenants do not comply with this Order, it may be served on the tenants, 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: September 21, 2011.

Residential Tenancy Branch