



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled 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, damage or loss under the Act, to retain all or part of the security deposit, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on October 15, 2011; he personally served each tenant with copies of the Application for Dispute Resolution and Notice of Hearing, at the rental unit, with his son present as a witness, at approximately 11:30 a.m.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenants did not appear at the hearing.

Preliminary Matters

The landlord stated that he no longer required an Order of possession as the tenants have now vacated. The landlord has applied requesting damage or loss; for the balance of November rent.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent and damage or loss?

Is the landlord entitled to a monetary Order?

May the landlord retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced in 2010, when the landlord purchased the new home. Rent was \$975.00 per month, due on the first day of each month. A deposit in the sum of \$475.00 was paid at the start of the tenancy.

The tenants did not pay October rent or November, 2011, rent. A 10 day Notice ending tenancy for unpaid rent was served to the tenants on October 2, 2011; the tenants did not vacate the rental unit until November 6, 2011.

The landlord agreed to keep a table in lieu of \$450.00 owed for October and November rent; the tenants owe a balance in the sum of \$1,500.00.

Analysis

In the absence of evidence to the contrary, I find that the tenants were served with a Notice to End Tenancy that required the tenants to vacate the rental unit on October 12, 2011, pursuant to section 46 of the Act. The tenants did not vacate the unit and chose to remain into the month of November, 2011.

In the absence of evidence to the contrary, I find that the tenants have not paid rent in the amount of \$\$1,950.00 for October and November, 2011; less \$450.00 for a table the landlord agreed to purchase from the tenants. Therefore, the landlord is entitled to compensation in the sum of \$1,500.00 for October and November, 2011, rent. As the tenants moved out on November 6, 2011, I find that the landlord has not been given adequate time to locate new tenants in November.

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

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$475.00, in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,550.00, which is comprised of \$1,500.00 October and November, 2011, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$475.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,075.00. 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: November 08, 2011.

Residential Tenancy Branch