



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MNSD, LRE, FF

Introduction

This was a cross-application.

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from each of the 2 co-tenants for the cost of this Application for Dispute Resolution.

One of the co-tenants applied requesting return of personal property.

The female tenant and landlord were present at the hearing. The landlord confirmed receipt of Notice of the tenant's application.

The tenant stated she was not served with Notice of the landlord's hearing. The landlord provided copies of November 9, 2011, registered mail receipts and tracking numbers for each tenant, sent to the address provided by the tenant on her application.

I determined that the tenants were served with Notice of the landlord's hearing on the 5th day after mailing.

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.

Issue(s) to be Decided

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

Is the landlord entitled to retain the deposit paid by the tenants?

Must the landlord be ordered to return the tenants personal property?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced with the male tenant in June, 2009. Rent is currently \$750.00 per month, due on the first day of each month. In October, 2011, the female tenant began living in the unit as a co-tenant. A deposit in the amount of \$350.00 was paid at the start of the tenancy.

The tenant acknowledged that a 10 Day Notice Ending Tenancy for Unpaid Rent was given to them on October 3, 2011. The tenant agreed October rent was not paid; the unit was vacated on October 15, 2011.

The landlord acknowledged that he has personal property that belongs to the tenants, as they owe him rent.

Analysis

I made the following Order, pursuant to section 65(e) of the Act:

- Within the next day the landlord will allow the male tenant to retrieve his aquariums and contents of the aquariums;
- That on Sunday, November 27, at 1 p.m. the tenants will be allowed access to the rental property in order to retrieve all of their personal property that is being held by the landlord.

I explained that the landlord may not hold the tenant's property as some sort of ransom for rent owed.

The landlord is entitled to compensation in the sum of \$750.00 for unpaid October, 2011, rent.

The landlord will retain the deposit in the sum of \$350.00 in partial satisfaction of the claim.

The landlord is entitled to filing fee costs in the sum of \$50.00.

Conclusion

I find that the landlord established a monetary claim, in the amount of \$800.00, which is comprised of \$750.00 in unpaid October, 2011, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will retain the deposit in the sum of \$350.00.

Based on these determinations I grant the landlord a monetary Order for \$400.00. 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.

The landlord will return the tenant's personal property as Ordered above.

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 23, 2011.

Residential Tenancy Branch