



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, 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 and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that January 19, 2012, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. The landlord possesses a Canada Post tracking number and receipt. The Canada Post web site indicated that the Notice had yet to be picked up by the tenant.

The tenant had been served with a 10 Day ending Tenancy for Unpaid Rent and had disputed that Notice. A hearing was scheduled for January 30, 2012. The tenant contacted the landlord by text message on January 29, 2012, to inform the landlord he would not be attending his hearing the next day.

The landlord did not have possession of the rental unit and as the tenant had disputed the Notice, it was reasonable for the landlord to have accepted the tenant remained in the rental unit. Therefore, I find that the tenant is deemed to have been served Notice of this hearing, pursuant to section 89 and 90 of the Act, on the 5th day after mailing; however the tenant did not appear at this hearing.

Preliminary Matters

The landlord had included information in the details section of the application that indicated a claim for damage to the rental unit. The landlord withdrew that portion of the claim and proceeded with a claim for unpaid rent and utilities, plus the filing fee cost. I determined that the landlord has leave to reapply for compensation in relation to any claim outside of unpaid rent and utilities.

The tenant has vacated the rental unit; therefore, the landlord did not require an order of possession.

Issue(s) to be Decided

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

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on August 1, 2011; rent was \$750.00 due on the first day of each month. The signed tenancy agreement submitted as evidence indicates that the tenant was to pay 60% of utility costs. The tenant agreed to pay \$95.00 per month utilities which would be reconciled against future bills.

On January 2, 2012 a Ten (10) day Notice to End Tenancy for non-payment of Rent, which had an effective date of January 11, 2012, was served to the tenant. The tenant disputed the Notice and a hearing was set for January 30, 2012. The landlord applied for dispute resolution on January 20, 2012, and served the tenant with Notice of the hearing via registered mail.

A day before the tenant's hearing he called the landlord to say he would not be attending the hearing. The landlord attended the hearing; the tenant's application was dismissed. The landlord then obtained possession of the unit.

The tenant did not pay January, 2012, rent in the sum of \$750.00 or the \$95.00 utility fee. The landlord submitted copies of documents that showed the tenant had paid rent and utilities as claimed for the months of October, November and December, 2011.

Analysis

I find that the tenant has failed to pay rent and utilities owed for January, 2012. The tenant occupied the rental unit in January and disputed a Notice ending tenancy, eventually abandoning his application.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$750.00 and utilities in the sum of \$95.00 for January 2012, and that the landlord is entitled to compensation in that amount.

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 \$895.00, which is comprised of \$845.00 in unpaid rent and utilities 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 \$895.00. 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.

The landlord has leave to reapply in relation to any compensation outside of unpaid rent or utilities.

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: February 14, 2012.

Residential Tenancy Branch