



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession; a monetary Order for unpaid rent, to retain 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 Matters

The parties confirmed that the tenants vacated the unit on March 9, 2012, as the result of a 10 Day Notice Ending Tenancy for Unpaid Rent issued on February 8, 2012. The landlord was unsure if they had possession as belongings have been left in the unit.

The tenant confirmed that his guest has left belongings in the unit. The landlord was encouraged to investigate the Regulation in relation to abandonment of belongings, as anything left in the unit is deemed to have belonged to the tenant. The tenant confirmed he has no plans to retrieve the belongings that remain in the rental unit.

Therefore; as the tenant has confirmed he has vacated the unit and that he does not wish to retrieve personal property left in the unit; the landlord has possession of the unit and does not require an Order of possession.

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 tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The 1 year fixed-term tenancy commenced on June 15, 2011; rent was \$1,900.00 per month, due on the first day of each month.

The tenant did not dispute the submission that February, 2012, rent was not paid.

The tenant confirmed that he over-held in the rental unit beyond the effective end date of the tenancy, February 18, 2012, and that he gave keys to the landlord on March 9, 2012, at which point he relinquished possession of the unit. The tenant did not pay any rent for March, 2012.

Analysis

The tenant has confirmed February, 2012, rent was not paid and that he remained in the unit until March 9, 2012. Therefore, I find that the landlord is entitled to compensation for unpaid February, 2012, rent, in the sum of \$1,900.00.

The landlord applied for an Order of possession based on the continued occupation of the unit by the tenant and it was not until 6 days prior to the hearing that the tenant vacated the unit.

As the landlord could not plan to move new occupants into the unit due to the tenant's continued occupation of the home beyond the effective date of the Notice, I find that the landlord is entitled to compensation for the loss of March, 2012, rent in the sum of \$1,900.00.

The landlord will retain the deposit in the sum of \$950.00 in partial satisfaction of the claim.

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

Conclusion

I find that the landlord established a monetary claim, in the amount of \$3,850.00, which is comprised of unpaid February rent and loss of March, 2012, 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 \$950.00 in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for \$2,900.00. 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.

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: March 15, 2012.

Residential Tenancy Branch