



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent and recovery of the filing fee

Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

On April 5, 2012 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, the tenant has not filed to dispute this notice.

The landlord testified that on April 5, 2012 he attended the tenant's apartment to deal with the bugs which the tenant had since determined to be carpet beetles. During this trip to the rental unit the landlord cleaned and sealed under the dishwasher to help with the bugs, sprayed under the baseboards and verified that the dryer filter was operational. The landlord also stated that it was at this time that the tenant was served with the notice to end tenancy.

The tenant testified that it was not April 5 but April 19 when the landlord served the tenant with the notice to end tenancy. The tenant claimed that she had spoken to the landlord on April 17, 2012 and she remembered that it was 2 days later and on the Thursday when the notice was served. The landlord stated that this was not true and it had been April 5, 2012 when the notice was served in person on the tenant.

The tenant stated that she had not paid the April 2012 rent as the landlord stated that he would talk with his wife about a rent reduction due to the problems the tenant had in the rental unit. The landlord stated that they could not come to an agreement and the tenant continued to withhold the rent. The tenant responded by stating that the landlord

simply did not get back to him about the proposed rent reduction and that was why the rent had remained unpaid.

The tenant stated that the May 2012 rent was unpaid as she had simply forgotten to provide the landlord with more post-dated rent cheques. The landlord has served the tenant with a new notice to end tenancy for unpaid rent for May 2012 and the tenant understands that she must pay the rent in full or file to dispute the notice no later than May 11, 2012. The tenant understands that she must file her own application if she wants to seek compensation for the conditions in the rental unit. The tenant also stated that she did not receive the landlord's amended application until May 3, 2012 under the door.

The landlord was asked if at this time he was still willing to adjust the April rent for the tenant however the landlord declined.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord is entitled to a monetary order for unpaid rent.

The tenant acknowledged that the \$700.00 April 2012 rent has not been paid. However, as the parties dispute when the 10 day notice to end tenancy for unpaid rent was actually served on the tenant, the landlord has not provided a copy of the notice for verification and the landlord's application notes '~~April 15/12~~ April 5/12', service of the notice has not clearly been proven. Therefore the landlord will not be entitled to an order of possession for unpaid rent.

And as the landlord served the amended application to the tenant less than 5 clear days prior to the hearing, the landlord's request for the May 2012 rent is dismissed.

Accordingly I find that the landlord is entitled to a monetary order for \$700.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$700.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$750.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: May 7, 2012

Residential Tenancy Branch