



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 Agent for the landlord provided affirmed testimony that on May 10, 2012, at 3:10 p.m. she personally served the male tenant with copies of the Application for Dispute Resolution and Notice of Hearing at the tenant's new residential address.

The female tenant was served via registered mail to the rental unit but she had vacated and the mail was returned.

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

As the female tenant did not receive the registered mail and her residential address was not used for service; I find that the claim against the female tenant is dismissed.

Preliminary Matters

The tenants have vacated the unit; the landlord no longer required 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 February 1, 2012. Rent was \$1,400.00 per month, due on the first day of each month. The tenants did not pay the deposit that was required. A copy of the tenancy agreement signed by the parties was not supplied as evidence.

The landlord stated that a ten day Notice to end tenancy for unpaid rent, which had an effective date of May 1, 2012 was served to the tenants on April 26, 2012, by posting to the door, and that the tenants vacated on May 7, 2012.

The tenants paid \$900.00 rent in February and since that time did not pay any rent.

The landlord is claiming \$1,400.00 per month for March, April and May, 2012; plus \$600.00 owed in February, 2012.

The tenancy agreement required the tenant to pay hydro costs. Initially the tenants failed to place the account in their name and the landlord had to pay \$190.73. The tenants understood they owed the landlord this money.

Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

I find, based on the affirmed testimony of the landlord that the tenant has failed to pay rent owed from February to April, 2012, in the sum of \$3,700.00.

As the ten day Notice to end tenancy was posted to the door on April 26, 2012, I find that the effective date of the Notice was May 9, 2012. The tenants vacated on May 7, 2012.

In relation to the claim for loss of May, 2012, rent revenue, I find that the landlord is entitled to compensation in the sum of \$322.19, pro-rated for the 7 days the tenants occupied the unit in May, 2012. I find that the landlord failed to mitigate their loss by ensuring the tenant was served with a Notice to end tenancy immediately after April, 2012, rent was not paid. The tenant had a history of non-payment of rent, yet the landlord waited until the end of the month to serve the eviction notice, which failed to minimize the loss the landlord has now claimed. Therefore, I find that balance of the claim for unpaid rent is dismissed.

In the absence of verification of the utility bills, I find that the claim for utility costs is dismissed.

I find that the landlord's application has merit and that the landlord is entitled to recover

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$4,072.19, which is comprised of unpaid rent 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 for the balance of \$4,072.19. 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: May 30, 2012.

Residential Tenancy Branch