



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 tenants for the cost of this Application for Dispute Resolution.

The landlord's agent provided affirmed testimony that on April 20, 2012, copies of the Application for Dispute Resolution and Notice of Hearing were personally delivered to the male tenant, at the rental unit, at approximately 11 a.m. The landlord and her agent were present. The female tenant was not served with Notice of the hearing.

The tenants vacated the unit of the date of service.

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 was not served with Notice of the hearing, the claim against the female respondent is dismissed.

Preliminary Matters

The landlord sent the tenant the evidence by regular mail on April 30, 2012; to the forwarding address provided by the tenant. The mail would be deemed served 5 days after mailing. Therefore, the evidence is not deemed served until May 5, 2012, which was not 5 days prior to the hearing. The landlord applied for dispute resolution on April 19, 2012. Therefore, the landlord's evidence was not served to the tenant within the required time-frame and was set aside.

The tenant vacated the unit on the date he was served with Notice of this hearing; the landlord no longer requires 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 tenants?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on January 4, 2012, rent in the sum of \$1,500.00 was due on the first day of each month. A deposit of \$750.00 was paid.

The tenant's April rent cheque was returned as NSF and rent has not been paid.

The landlord is claiming compensation in the sum of \$1,500.00 for unpaid rent.

Analysis

In the absence of the tenant, who was served with notice of this hearing; I find that the landlord is entitled to compensation for unpaid April, 2012, rent in the sum of \$1,500.00.

I find that the landlord may retain the \$750.00 deposit in partial satisfaction of the claim.

I find that the landlord's application has merit 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 \$1,600.00, which is comprised of unpaid April 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 \$750.00 deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for \$850.00. 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: May 09, 2012.

Residential Tenancy Branch