



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MNDC, FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue, and to recover the cost of the filing fee from the Tenants.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that he handed the Notice of Hearing documents to the male Tenant at the rental unit on May 13, 2012, when the Tenants were moving out of the rental unit. He stated that he gave both copies of the Notice of Hearing documents to the male Tenant and that he did not personally serve the female Tenant.

Applications for Dispute Resolution that include a request for Monetary Orders must be served in accordance with the provisions of Section 89(1) of the Act. Based on the affirmed testimony of the Landlord's agent, I am satisfied that the male Tenant was duly served. However, the Landlord did not serve the female Tenant in accordance with the provisions of Section 89(1) of the Act. The Hearing proceeded against the male Tenant only.

Preliminary Matters

The Tenants have moved out of the rental unit and therefore the Landlord's application for an Order of Possession is no longer required and is dismissed.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent for May and for loss of revenue for the month of June, 2012?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

A copy of the tenancy agreement was provided in evidence, which is a one year term lease, commencing March 1, 2012 and ending February 28, 2013. Monthly rent is \$1,600.00 per month, due the first day of each month. The Tenants paid a security deposit in the amount of \$800.00 at the beginning of the tenancy.

The Landlord's agent stated that the Tenants did not pay rent when it was due on May 1, 2012, and therefore the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on May 2, 2012 (the "Notice"). The Landlord's agent served the Tenants with the Notice on May 2, 2012, by handing it to the Tenants at the rental unit. A copy of the Notice was provided in evidence.

The Landlord's agent testified that the Tenants have not paid any of the outstanding rent for May, 2012.

The Landlord's agent stated that the Landlord was able to re-rent the rental unit effective July 1, 2012, and seeks to recover lost revenue for the month of June, 2012, from the Tenants.

The Landlord's agent requested that the security deposit be set off against the Landlord's monetary award.

Analysis

Based on the Landlord's agent's undisputed affirmed testimony, and in the absence of any evidence to the contrary, I find that the Tenants did not pay rent for the month of May, 2012.

Section 67 of the Act states that if damage results from a party not complying with the Act, regulation or tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement. I find that the Tenant did not comply with Section 26 of the Act and that the Landlord has suffered loss of revenue for the months of May and June as a result of the Tenants' breach of Section 26. Therefore, I find that the Landlord is also entitled to compensation for unpaid rent and loss of revenue for the months of May and June, 2012.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of his monetary claim. No interest has accrued on the security deposit.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order against the male Tenant, calculated as follows:

Unpaid rent for May, 2012	\$1,600.00
Loss of revenue for June, 2012	\$1,600.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$3,250.00
Less security deposit	<u>- \$800.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,450.00

It is important to note that the Landlord signed into the Hearing on time and the Hearing proceeded. We waited approximately 10 minutes for the Tenant to sign into the Hearing, but he did not. Immediately after I had provided my oral Decision to the Landlord, but before the conference was formally closed, the male Tenant signed into the Hearing. I explained to him that my Decision had been made and that the Hearing was concluded. I advised him what the Decision was and asked him where he would like me to send his copy. The male Tenant provided an address.

The male Tenant then stated that he had filed an Application for Dispute Resolution seeking to cancel the Notice to End Tenancy, but could not provide the file number for his Application.

He began to question why he had to pay rent for the full month of May and for June, 2012, and demanded to speak to "someone else". At this point, the male Tenant uttered profanities and I ended the conference call.

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of **\$2,450.00** for service upon the male Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: June 01, 2012.

Residential Tenancy Branch