



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 made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, 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 August 13, 2012 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service.

The registered mail was returned to the landlord. The tenant vacated the unit on August 20, 2012. As the Act determines that registered mail is deemed served on the 5th day after mailing, I find that the tenant was served with Notice of this hearing effective August 18, 2012. Refusal to retrieve registered mail does not avoid service.

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

Preliminary Matters

The landlord withdrew the request for an Order of possession as the tenant has vacated the unit. The landlord withdrew the request for loss of September 2012 rent as they mitigated by locating new occupants effective September 1, 2012.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid August, 2012 rent?

Is the landlord entitled to a monetary Order for unpaid rent and an August, 2012 late fee?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The current 3 month, fixed-term tenancy commenced on May 1, 2012. Rent was \$750.00 due on the first day of each month. A deposit in the sum of \$375.00 was paid on December 1, 2011.

A copy of the signed tenancy agreement was submitted as evidence. The addendum included a late rent fee payable in the sum of \$25.00.

The tenant did not pay August 2012 rent owed; the landlord is claiming compensation plus the late fee owed for August.

A copy of a tenant ledger was supplied as evidence.

Analysis

In the absence of the tenant at this hearing, I find on the balance of probabilities, that the tenant failed to pay August 2012 rent owed in the sum of \$750.00 and that the landlord is entitled to compensation in that amount.

As rent was not paid in August I find that the landlord is entitled to a late fee in the sum of \$25.00.

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

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$375.00, in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$825.00, which is comprised of unpaid august 2012 rent, the August late fee and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit in the amount of \$375.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$450.00. 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 final and binding on the parties, unless otherwise provided under the Act, and 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: September 11, 2012.

Residential Tenancy Branch