



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and damage to the rental unit, for authority to retain the tenant's security deposit and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant on July 20, 2012 at her place of employment.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order, to retain the tenant's security deposit and to recover the filing fee?

Background and Evidence

This month to month tenancy began on September 1, 2011, ended on or about July 20, 2012, when the tenant vacated the rental unit, monthly rent was \$850.00 and the tenant paid a security deposit of \$425.00 on or about August 31, 2011.

The landlord's monetary claim is in the amount of \$875.00, for unpaid rent for July 2012 and a late fee of \$25.00.

The landlord testified that the tenant was habitually late in paying rent, resulting in the issuance of several 10 Day Notices to End Tenancy for Unpaid Rent (the "Notice"). The tenant was served a Notice for non-payment of rent for July 2012, and subsequently vacated the rental unit on or about July 20, 2012, without paying rent of \$850.00 for that month.

The landlord's evidence, a copy of the tenancy agreement, shows that the tenant was subject to a late payment of rent fee of \$25.00.

The landlord said that they have retained the tenant's security deposit, due to their application claiming against it. The landlord also said that the tenant has not provided a forwarding address.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, I accept the evidence of the landlord that the tenant owed rent of \$850.00 for July 2012 and vacated the rental unit without paying such rent. I also accept that the tenant was obligated to pay a late fee of \$25.00.

I also allow the landlord recovery of the filing fee of \$50.00.

Conclusion

I therefore find the landlord has proven a monetary claim of \$925.00, comprised of unpaid rent of \$850.00 for August 2012, a late fee of \$25.00 and the filing fee of \$50.00.

I allow the landlord to retain the tenant's security deposit of \$425.00 in partial satisfaction of their monetary claim and grant the landlord a final, legally binding monetary order for the balance due in the amount of \$500.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement 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* and is being mailed to both the applicant and the respondent.

Dated: September 26, 2012.

Residential Tenancy Branch