



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Tenant's application filed September 4, 2012: CNR; OLC; RP; AS

Landlords' application filed September 11, 2012: OPR; MNR; MNSD; FF

Introduction

This Hearing was convened to consider cross applications. The Tenant seeks: to cancel a Notice to End Tenancy for Unpaid Rent or Utilities filed September 3, 2012 (the "Notice"); an Order that the Landlord comply with the Act, regulation or tenancy agreement; an Order that the Landlord make repairs to the rental unit; and an Order allowing the Tenant to assign or sublet the rental unit.

The Landlords seek: an Order of Possession; a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of the Landlords' monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Tenant was served with the Notice of Hearing documents and copies of the Landlords' evidence by handing the documents to the Tenant on September 11, 2012, at the rental unit.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(a) of the Act. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing continued in his absence.

I find that the Tenant has abandoned his application and therefore his application is **dismissed without leave to reapply**.

Preliminary Matters

At the outset of the Hearing, the Landlord testified that the tenant has abandoned the rental unit. The Landlord stated that the door was left unlocked and that the Tenant's possessions are gone. He stated that the Landlords were waiting for the outcome of this Hearing before changing the locks and taking back possession of the rental unit. I advised the Landlord that if he considered the rental unit abandoned, he could take

possession of the rental unit. Therefore, the Landlords no longer require an Order of Possession of the rental unit and this portion of their application is **dismissed**.

Issues to be Decided

- Are the Landlords entitled to a monetary award for unpaid rent?
- May the Landlords apply the security deposit towards partial satisfaction of the Landlord's monetary award?

Background and Evidence

The Landlord provided the following testimony:

During the course of the Hearing, the Landlord asked to amend the Landlords' application to include a claim for loss of revenue for the month of October, 2012. He testified that the Notice was hand delivered to the Tenant on September 3, 2012.

This tenancy started September 1, 2012. The Tenant's co-tenant decided at the last minute not to move into the rental unit. The Monthly rent was \$950.00, due on the first day of each month. The Landlord stated that the Tenant owes \$490.00 for the month of September, 2012.

The Tenant and the co-tenant paid a security deposit in the total amount of \$425.00 to the Landlords.

Analysis

Based on the undisputed affirmed testimony of the male Landlord, I find that the Tenant has not paid rent in the amount of \$490.00 for the month of September, 2012.

The Tenant filed an application disputing the Notice and therefore I find that the Landlord was not able to advertise for potential new tenants until the outcome of this Hearing. I allow the Landlord's application to amend the application to add a claim for loss of revenue and find that the Landlord is entitled to loss of revenue for the month of October, 2012.

Further to the provisions of Section 72(2)(a) of the Act, the Landlords may apply the security deposit towards the unpaid rent.

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the filing fee from the Tenant.

I hereby provide the Landlords a Monetary Order, calculated as follows:

Unpaid rent for September, 2012	\$490.00
Loss of revenue for October, 2012	\$950.00
Recovery of filing fee	<u>\$50.00</u>
Subtotal	\$1,490.00
Less security deposit	<u>-\$425.00</u>
Balance owed to Landlords	\$1,065.00

Conclusion

The Tenant's application is **dismissed in its entirety**.

The Landlords' application for an Order of Possession is **dismissed**.

I hereby provide the Landlords a Monetary Order in the amount of **\$1,065.00** for service upon the 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: October 15, 2012.

Residential Tenancy Branch