



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD and FF

Introduction

This application was brought by the landlord on September 14, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on September 2, 2012. The landlord also sought a Monetary Order for unpaid rent and late fees, recovery of the filing fee for this proceeding and authorization to retain the security damage deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing served in person on an adult in the rental unit, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

At the commencement of the hearing, the landlord's agent advised that the tenant had vacated the rental unit in the latter half of September 2012 and had removed the last of his property from the rental unit in the first week of October 2012. Therefore, she withdrew the request for the Order of Possession but continued the claim for unpaid rent.

Issue(s) to be Decided

This application now requires a decision on whether the landlord is entitled to a monetary award for unpaid rent, late fees, filing fee and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on March 13, 2012. Rent was \$675 per month and the landlord holds a security deposit of \$337.50 paid on March 2, 2012. The rental agreement includes a provision that the tenant pays an additional \$25 fee if rent is late.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of September 2, 2012 had been served after the tenant had failed to pay the rent due on September 1, 2012 and carried a rent shortfall from August 2012. In the interim, the \$675 rent for September 2012 and the \$60 shortfall for August remain outstanding.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due and section 67 of the *Act* empowers the director's delegate to determine an amount owed by one party to another and to order payment.

In this instance, I find that the tenant owes the landlord for the rent shortfall from August 2012, all of the rent for September 2012, and late fees for both months.

I further find that the landlord is entitled to recover of the filing fee for this proceeding and, as empowered by section 72 of the *Act*, I authorize the landlord to retain the security deposit plus interest in set off against the unpaid rent.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Rent shortfall for August 2012	\$ 60.00
Late fees for both months (\$25 x 2)	50.00
Filing fee	<u>50.00</u>
Sub total	\$835.00
Less retained security deposit (No interest due)	<u>- 337.50</u>
TOTAL	\$497.50

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is also accompanied by a Monetary Order for **\$497.50**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application for any damage to the rental unit ascertained at the end of the tenancy.

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 18, 2012

Residential Tenancy Branch