



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 requested 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 landlord provided affirmed testimony that on October 25, 2012, a copy of the Application and Notice of Hearing package was sent to the tenant via registered mail, at the rental unit address. The landlord checked the Canada Post tracking web site and determined that the tenant had signed, accepting the mail on October 26, 2012.

As the tenant signed, accepting the mail, 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; the tenant vacated the unit on October 29, 2012.

The landlord amended the application, reducing the amount of compensation claimed by \$1,020.00; a claim was made for unpaid October 2012 rent only.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent and a NSF fee?

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on October 13, 2012, market rent was \$1,020.00 per month; the rent payable by the tenant was set at \$520.00 and, based on an income evaluation, reduced to \$500.00 per month in November 2011. Rent was due on the first day of each month. A deposit in the sum of \$510.00 was paid.

A copy of the tenancy agreement was supplied as evidence. Clause 5(e) imposed a NSF fee of \$25.00.

The landlord supplied a copy of a letter issued to the tenant on September 11, 2012, warning the tenant that she had failed to supply the landlord with the required paperwork for review of her income, rent would revert to market rent of \$1,020.00 effective October 1, 2012.

The tenant did not provide the paperwork and did not pay any rent owed on October 1, 2012. A cheque issued in October 2012 was returned as NSF; the landlord has claimed compensation for the NSF administrative fee of \$25.00. A tenant ledger was supplied which indicated the NSF cheque for October.

A Ten Day Notice to End Tenancy for Unpaid Rent in the sum of \$1,020.00 was then given to the tenant; the tenant vacated the unit on October 29, 2012.

Analysis

In the absence of evidence to the contrary, I find that the tenant has not paid the market rent in the amount of \$1,020.00 that was due October 1, 2012 and that the landlord is entitled to compensation in that amount.

As the tenancy agreement included a term for NSF administrative fees, I find that the landlord is entitled to compensation in the sum of \$25.00 for the October 2012 NSF cheque issued by the tenant.

I find that the landlord's application has merit and that the landlord is entitled to recover the \$50.00 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 \$510.00 in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order in the sum of \$585.00. 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

Conclusion

The landlord has been issued a monetary Order for unpaid rent.

The landlord is entitled to filing fee costs.

The landlord is entitled to retain the deposit.

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: November 30, 2012.

Residential Tenancy Branch