



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes 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 unpaid rent and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on October 25, 2012. The evidence included the registered mail receipts, tracking information and a printout from Canada Post showing that the mail was "refused by recipient." In further explanation after inquiry, the landlord said that the address used for service of the documents was the address provided to her by the tenant and one in which they had previously sent registered mail to the tenant, which was claimed.

I find the tenant was served notice of this hearing 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 and to recover the filing fee?

Background and Evidence

The landlord supplied evidence that this tenancy began on December 27, 2008, ended at the end of January 2011, when the tenant vacated the rental unit, and the monthly total rent obligation was \$328.00.

The landlord's monetary claim is in the amount of \$406.00, for unpaid rent of \$78.00 for December 2010 and \$328.00 for January 2011.

The landlord explained that the date listed in their application for dispute resolution for unpaid rent of \$78.00 contained a typographical error in that the year should read 2010 instead of 2012, as stated.

The landlord's relevant evidence included the tenancy agreement, tenant ledger sheet, communication with the tenant and proof of service of documents.

The landlord testified that the tenant failed to pay all rent owed in December 2010, leaving a deficiency of \$78.00, and failed to pay the rent of \$328.00 owed in January 2011, prior to vacating at the end of that month.

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, the undisputed evidence of the landlord shows that the tenant remained in the rental unit through January 2011, and failed to pay all rent owed for December 2010, in a deficient amount of \$78.00, or any rent for January 2011, in a deficient amount of \$328.00.

I therefore find the landlord has established a monetary claim for unpaid rent in the amount of \$406.00.

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

I find the landlord has established a total monetary claim in the amount of \$456.00, comprised of unpaid rent for December 2010 and January 2011 in the amount of \$406.00, and recovery of the filing fee of \$50.00.

Pursuant to section 67 of the Act, I grant the landlord a final, legally binding monetary order in the amount of \$456.00, 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.

Conclusion

The landlord is granted a monetary order in the amount of \$456.00.

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: January 24, 2013

Residential Tenancy Branch

