



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, 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, 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 gave evidence that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on November 8, 2012. The evidence included the registered mail receipt. In further explanation after inquiry, the landlord said that the address used for service of the documents was the address provided to him by the tenant and one in which the tenant acknowledged in email communication after the application and hearing package were served.

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 his 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, for authority to retain the tenant's security deposit, and to recover the filing fee?

Background and Evidence

The landlord supplied evidence that he was not sure when the tenancy began as the tenant was already occupying the rental unit when he bought the house in 2004. The tenancy ended on April 1, 2012, when the tenant vacated the rental unit, according to the landlord's written submission.

The monthly total rent obligation was \$875.00.

The landlord's monetary claim was in the amount of \$3122.61 for unpaid rent accumulated during the tenancy; however the landlord said that since he filed the application for dispute resolution, the tenant made a payment of \$60.00, reducing his total monetary claim to \$3062.61.

The landlord explained that during the tenancy the tenant had a history of paying rent late and in deficient amounts. The landlord submitted that there have been many requests and communication throughout the tenancy with the tenant in attempts at having the deficient rent paid, with no success.

The landlord said that the tenant gave approval to the landlord to retain his security deposit and interest to be applied towards the balance of unpaid rent, which is reflected in the landlord's total monetary claim.

The landlord's relevant evidence included extensive email electronic communication with the tenant, bank records showing payments made by the tenant and registered mail receipts.

Analysis

Given the evidence before me, in the absence of any evidence from the tenant who did not appear despite being properly served with notice of this proceeding, I accept the version of events as presented by the landlord.

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.

I find the undisputed evidence of the landlord shows that the tenant made deficient and late payments of rent throughout the tenancy and had accumulated a balance of unpaid rent at the end of the tenancy.

I therefore find the landlord has established a monetary claim for unpaid rent in the amount of \$3062.61. I also allow the landlord to retain the tenant's security deposit.

I grant the landlord's request for recovery of the filing fee of \$50.00.

I find the landlord has established a total monetary claim in the amount of \$3112.61, comprised of unpaid rent in the amount of \$3062.61, 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 \$3112.61, 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 \$3112.61.

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: February 05, 2013

Residential Tenancy Branch

