



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that she placed the Application for Dispute Resolution and Notice of Hearing through the Tenant's mail slot on January 24, 2013. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

The Landlord submitted documents to the Residential Tenancy Branch on January 29, 2013. The Agent for the Landlord stated that her records show that the Landlord served this evidence to the Tenant on January 29, 2013, although she does not know how it was served. The Agent for the Landlord was advised that none of the documents would be accepted as evidence for these proceedings, including the Notice to End Tenancy, as there is insufficient evidence to determine whether they were served to the Tenant in accordance with the *Act*.

The Agent for the Landlord was given the option of withdrawing the Application for Dispute Resolution, in which case the Landlord could reapply, or proceeding with the hearing with the understanding that a decision would be based on any oral testimony provided. The Agent for the Landlord elected to withdraw the application for an Order of Possession and to proceed with the remainder of the claims.

Issue(s) to be Decided

Is the Landlord is entitled to a monetary Order for unpaid rent, late fees, and the fee for filing this Application for Dispute Resolution, pursuant to sections 67 and 72 of the *Act*?

Background and Evidence

The Agent for the Landlord stated that this tenancy began on August 01, 2012; that the Tenant is required to pay monthly rent of \$975.00 by the first day of each month; that

the Tenant did not pay his rent for January until January 24, 2013; that when he paid his rent for January there was an understanding that the tenancy would continue; and that the Tenant has only paid \$50.00 in rent for February of 2013.

The Landlord is also seeking to collect late fees from January and February of 2013. The Agent for the Landlord stated the Tenant in the tenancy agreement the Tenant agreed to pay a fee of \$20.00 whenever the rent is not paid on time.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$975.00 and that he has not paid \$925.00 of the rent that was due on February 01, 2013. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$925.00 in outstanding rent to the Landlord.

Based on the undisputed evidence, I find that the tenancy agreement requires the Tenant to pay a late fee of \$20.00 whenever he is late paying rent; that he was late paying his rent in January and February of 2013; and that he therefore must pay late fees of \$40.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,015.00, which is comprised of \$925.00 in unpaid rent, \$40.00 in late fees, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$1,015.00. 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.

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: February 14, 2013

Residential Tenancy Branch

