



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, OPC, OPB, MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for unpaid rent, a monetary Order for damage to the rental unit, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution. At the hearing the Landlord withdrew the claim for a monetary Order for damage to the rental unit.

The female Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Tenant at the rental unit, via registered mail, on March 15, 2013. The Landlord submitted Canada Post documentation that corroborates this statement. 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.

At the hearing the Landlord applied to amend the Application for Dispute Resolution to include rent money owing for April of 2013. I find that it would be reasonable for the Tenant to conclude that the Landlord would be seeking to recover all the rent money that is currently owing and I have therefore amended the Application to include unpaid rent from April of 2013, if any rent is due for that month.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession, to a monetary Order for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The female Landlord stated that this tenancy began on December 03, 2012; that the Tenant was required to pay monthly rent of \$950.00 by the first day of each month; that the Tenant paid a security deposit of \$475.00; and that no rent was paid for March of 2013.

The female Landlord stated that on March 02, 2013 she personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of March 13, 2013. The male Landlord stated that he witnessed service of the Notice to End Tenancy on March 02, 2013.

The female Landlord stated that the Tenant vacated the rental unit on March 29, 2013.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$950.00 by the first day of each month and that the Tenant did not pay the rent that was due on March 01, 2013. As she is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$950.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy that directed the Tenant to vacate the rental unit by March 13, 2013, pursuant to section 46 of the *Act*.

On the basis of the undisputed evidence I find that the rental unit was vacated on March 29, 2013 and that the Landlord now has legal possession of the rental unit. Although I advised the Landlord at the hearing that I would be granting an Order of Possession I now realize, upon reflection, that an Order of Possession is unnecessary, given that the Landlord has legal possession of the unit.

As the Tenant did not vacate the rental unit on March 13, 2013, I find that she was obligated to pay rent, on a per diem basis, for the days she remained in possession of the rental unit. As she has already been ordered to pay rent for the entire month of March of 2013 I find that the Landlord has been fully compensated for that month.

As the Tenant vacated the rental unit prior to April of 2013, I find that she is not obligated to pay rent for any days in April. The Landlord retains the right to file another Application for Dispute Resolution seeking compensation for lost revenue from April of 2013.

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 for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,000.00, which is comprised of \$950.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit, in the amount of \$475.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$525.00. 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: April 10, 2013

Residential Tenancy Branch

