



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on March 19, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent or utilities and to recover the cost of the filing fee from the Tenant for this application.

On April 08, 2013, the Landlord filed an amended application seeking to increase their claim from \$850.00 to \$1,700.00 to add April 2013 rent.

The Landlord submitted documentary evidence which indicates the Tenant was served with copies of the Landlord's original application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on March 20, 2013 by registered mail. Canada Post receipts were provided in the Landlord's evidence. The Tenant was not served copies of the amended application.

Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding and the original application, in accordance with the Act; therefore, I proceeded to hear the matters pertaining to the original application, in the Tenant's absence. The amended application for April 2013 rent is dismissed with leave to reapply.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord submitted documentary evidence which included, among other things,

copies of: the 10 Day Notice to end tenancy for unpaid rent issued March 7, 2013; the tenancy agreement; and the tenant ledger.

The parties entered into a written fixed term tenancy agreement that began on May 7, 2012 and is set to end on May 31, 2013. Rent is payable on the first of each month in the amount of \$850.00 and \$425.00 was paid on May 7, 2013 as the security deposit.

The Landlord testified that when the Tenant failed to pay the March 1, 2013, rent a 10 Day Notice was posted to the Tenant's door on March 7, 2013.

The Landlord advised that the Tenant vacated the property and placed her keys in the mail box, without providing a forwarding address, on April 08, 2013. As a result they are withdrawing their request for an Order of Possession and are seeking the monetary order.

Analysis

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case the Tenant vacated the unit on April 8, 2013 and returned the keys to the Landlord. The Landlord has regained possession and has withdrawn her request for an Order of Possession.

The Landlord claims unpaid rent of \$850.00 which was due March 1, 2013. The Tenant failed to pay rent in accordance with the tenancy agreement which is a breach of section 26 of the Act. Accordingly, I award the Landlord a Monetary Award for unpaid March rent of **\$850.00**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$900.00** (\$850.00 + \$50.00). This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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 16, 2013

Residential Tenancy Branch

