



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

Dispute Codes:

OPR, 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 for Unpaid Rent, a monetary Order for unpaid rent, 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 outset of the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit was vacated sometime during the second week of April of 2013.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant at the rental unit, via registered mail, on March 28, 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.

Issue(s) to be Decided:

Is the Landlord entitled to a monetary Order for unpaid rent/lost revenue and to keep all or part of the security deposit?

Background and Evidence:

The Agent for the Landlord stated that this tenancy began on May 15, 2012; that the Tenant was required to pay monthly rent of \$700.00 by the first day of each month; and that the Tenant paid a security deposit of \$350.00.

The Agent for the Landlord stated that the Tenant did not pay \$600.00 of the rent that was due for November of 2012, and that no rent was paid for any period after November of 2012.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on February 14, 2013, which had a declared effective date of March 22, 2013. She stated that the Proof of Service that

was completed by the Landlord, which declares that the Notice was posted on March 12, 2013, is incorrect.

The Notice to End Tenancy declared that the Tenant owed \$2,700.00 in rent that was due on March 12, 2013. She stated that the Notice should have required the Tenant to vacate the rental unit on February 24, 2013. She stated that the Tenant vacated the rental unit sometime in the second week of April of 2013.

The Agent for the Landlord stated that the rental unit was re-rented for April 15, 2013 so the Landlord is not seeking lost revenue for any period after April 15, 2013.

Analysis

Based on 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 \$700.00 by the first day of each month; that the Tenant did not pay \$600.00 of the rent that was due on November 01, 2012; that the Tenant did not pay \$700.00 of the rent that was due on December 01, 2012; that the Tenant did not pay \$700.00 of the rent that was due on January 01, 2013; that the Tenant did not pay \$700.00 of the rent that was due on February 01, 2013; and that the Tenant did not pay \$700.00 of the rent that was due on March 01, 2013. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$3,400.00 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*. On the basis of the testimony of the Agent for the Landlord and the Proof of Service of the Notice to End Tenancy, I find that a Notice to End Tenancy was posted at the rental unit, which directed the Tenant to vacate the rental unit by March 22, 2013, pursuant to section 46 of the *Act*.

As the Tenant did not vacate the rental unit on March 22, 2013, I find that he is obligated to pay rent, on a per diem basis, for the days he remained in possession of the rental unit. As he has already been ordered to pay rent for the period between March 22, 2013 and March 30, 2013, I find that the Landlord has been fully compensated for that period.

I also find that the Tenant must compensate the Landlord for the days in April that he remained in possession of the rental unit, at a daily rate of \$23.33. As the Landlord does not know precisely when the rental unit was vacated, it is difficult to calculate the precise amount of rent owing for April.

I find that the Tenant fundamentally breached the tenancy agreement when he did not pay rent when it was due. I find that the Tenant fundamentally breached section 46(5) of the *Act* when he did not vacate the rental unit by the effective date of the Ten Day Notice to End Tenancy. I find that his continued occupancy of the rental unit made it difficult for the Landlord to find new tenants for the period prior to April 15, 2013, as the Tenant did not vacate the rental unit until the second week of April. I therefore find that

the Tenant must compensate the Landlord for the loss of revenue experienced between the date he vacated and April 14, 2013.

Based on the per diem rent of \$23.33 I find that the Landlord is entitled to compensation for rent/lost revenue for 14 days in April, which equates to \$326.62.

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 \$3,776.62, which is comprised of \$3,726.62 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 of \$350.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$3,426.62. 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 24, 2013

Residential Tenancy Branch

