



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MELECTRA ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55; and
3. An Order to recover the filing fee pursuant to Section 72.

I accept the landlord's evidence that the tenant was properly served with the Notice to End Tenancy by way of posting the Notice to the rental unit door on February 19, 2013 and by registered mail sent February 19, 2013.

I accept the landlord's evidence that the tenant was properly served with the Application for Dispute Resolution including the Notice of Hearing and the landlord's evidence by way of registered mail sent March 27, 2013 and by personal service on March 27, 2013.

The tenant did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Background and Findings

Order of Possession

The landlord testified that the tenant has now vacated the rental unit. The application for an Order of Possession is therefore withdrawn as it is no longer required.

Monetary Order

Based on the undisputed evidence of the landlord I find that the landlord has met the burden of proving that there are rental arrears owing in the sum of \$650.00 for each of February and March 2013.

With respect to the landlord's claim for an administration fee of \$162.50 this sum is not detailed in the Tenancy Agreement and I am not satisfied that the tenant was aware of this fee or that he agreed to pay it. The claim for this sum is dismissed.

With respect to the \$80.00 claimed for 2 late fees of \$40.00 each the allowable amount for late fees is \$25.00. I will therefore allow 2 late fees of \$50.00 as opposed to the \$80.00 claimed.

Security Deposit

Section 72 of the *Residential Tenancy Act* states as follows:

Director's orders: fees and monetary orders

- 72** (1) The director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.
- (2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

In accordance with Section 72(2)(b) I will allow the landlord to retain the security deposit paid by the tenant in partial satisfaction of this claim.

Filing Fees

As the landlord has been successful in this application I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of Monetary Award in Favour of the Landlord

Rental Arrears	\$1,300.00
Late Fees 2 x \$25.00	50.00
Filing Fees for the cost of this application	50.00
Less Security Deposit (Paid June 28, 2012 - no interest accrued)	-325.00
Total Monetary Award	\$1,075.00

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

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