



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that he served the tenant with his Application for Dispute Resolution and Notice of Hearing by registered mail to the tenant's address on April 25, 2013. The landlord supplied the registered mail receipt with the tracking number.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue-The landlord said that since his application for dispute resolution was filed, the tenant vacated the rental unit and as a consequence, he no longer requests an order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on March 1, 2013, monthly rent is \$575, and a security deposit of \$287.50 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on April 20, 2013, he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by registered mail, listing unpaid rent of \$575 as of April 1, 2013. The effective vacancy date listed on the Notice was May 5, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant did not make any further payments of rent and that he vacated the rental unit on May 5, 2013.

The landlord said that he was able to secure a new tenant for the rental unit by May 10, 2013, and that due to this, he was requesting a prorated loss of rent revenue for the first 9 days of May.

The landlord also requested a late payment fee of \$30, pursuant to the terms of the tenancy agreement and recovery of the filing fee.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord has provided sufficient evidence and that he is entitled to a monetary award of \$820.10, comprised of unpaid rent of \$575 for April, a late rent payment fee of \$25, as allowed under Residential Tenancy Branch Regulation #7, prorated loss of rent revenue for May 1-9 for the days as rent was owed for May on May, pursuant to the terms of the tenancy agreement, in the amount of \$170.10 ($\$575 \text{ monthly rent} \times 12 \text{ months} = \$6900 \text{ yearly rent} \div 365 \text{ days} = \$18.90 \text{ daily rate} \times 9 \text{ days} = \170.10), and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord has proven a monetary claim of \$820.10. At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$287.50 in partial satisfaction of the claim.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$532.60, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: May 23, 2013

Residential Tenancy Branch

