



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ming Properties Inc. / Pacifica First Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by way of registered mail. Despite this, the tenant did not appear.

The landlord's agent further testified that the tenant vacated the unit in late April, and did not inform the landlord of a forwarding address. Accordingly, I consider the landlord's application for an order of possession to be withdrawn.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, tenancy began on February 1, 1996. Monthly rent is due and payable in advance on the first day of each month. Currently, monthly rent is \$634.00, and a security deposit of \$100.00 was collected at the start of tenancy.

Arising from rent which remained unpaid when due on April 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated April 5, 2013. The notice was served by way of posting on the tenant's door, and by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered" on

April 23, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is April 15, 2013. Subsequently, the tenant made no further payment toward rent, and she vacated the unit at some stage in late April without providing the landlord with a forwarding address.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated April 5, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. Shortly thereafter the tenant vacated the unit and provided no forwarding address.

As for the monetary order, I find that the landlord has established a claim of **\$684.00**:

\$634.00: *unpaid rent for April 2013*

\$50.00: *filing fee*

I order that the landlord retain the security deposit of \$100.00, plus interest of \$16.30 [**total: \$116.30**], and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$567.70** (\$684.00 - \$116.30).

The landlord's application to recover a \$25.00 fee assessed for late payment of rent is hereby dismissed, as there is no specific provision for the assessment of this fee in the tenancy agreement. In this regard, section 7 of the Regulation which addresses **Non-refundable fees charged by landlord**, provides in part as follows:

7(1) A landlord may charge any of the following non-refundable fees:

(d) subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;

(2) A landlord must not charge the fee described in paragraph (1)(d) or (e) unless the tenancy agreement provides for that fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$567.70**. This order may be served on the tenant, filed in the 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: May 14, 2013

Residential Tenancy Branch

