



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR, MNR, MND, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on April 26, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant’s absence.

At the start of the conference call the Landlord said they found the unit to be abandoned on May 17, 2013 and as a result they do not require an Order of Possession. The Landlord said she is withdrawing her request on the application for an Order of Possession.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is there damage to the unit, site or property and if so how much?
4. Is the Landlord entitled to compensation for damage and if so how much?

Background and Evidence

This tenancy started on May 1, 2012 as a 6 month fixed term tenancy with an expiry date of October 31, 2012 and then continued on a month to month basis. Rent is \$845.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$422.50 in advance of the tenancy.

The Landlord said that the Tenant did not pay \$845.00 of rent for April, 2013 when it was due and as a result, on April 5, 2013 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated April 5, 2013 on the door of the Tenant’s rental unit. The Landlord said the Tenant has unpaid rent for May, 2013 of \$845.00 as well.

The Landlord continued to say the Tenant has a utility bill of \$37.01 outstanding and the Tenant has a \$10.72 credit on his account.

The Landlord said she is also seeking to recover the \$25.00 NSF fee that is written into the Tenancy Agreement for both months of April and May, 2013 as the Tenant's rent payments were declined at the bank due to insufficient funds.

The Landlord also requested to recover the \$50.00 filing fee for this proceeding.

The Landlord said they have not been able to rent the unit until June 1, 2013 when a new tenant is moving in.

The Landlord concluded her testimony saying her total claim is \$1,816.29 including the filing fee of \$50.00.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant did not give the Landlord proper notice to end the tenancy and the Tenant did not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent of \$845.00 for April, 2013 and for the rent of \$845.00 for May, 2013. Unpaid utilities are treated as unpaid rent if the Landlord gives the Tenant a formal demand to pay the utility bills. I find the Landlord has given the Tenant that demand in the application and therefore I award the Landlord unpaid utilities in the amount of \$37.01 less the \$10.72 credit the Tenant had on his account for a total amount of unpaid utilities of \$26.29.

Further I award the Landlord the NSF charges for the months of April and May, 2013 as these charges are written into the tenancy agreement and are agreed to and signed to by both the Tenant and the Landlord. I award the Landlord \$50.00 in NSF charges.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and 72 of the Act and section 17 of the Policy guidelines, which allows an offset of the security deposit for money owed, that the Landlord is to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 1,690.00	
	Unpaid utilities	\$ 37.01	
	NSF charges	\$ 50.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$1,827.01
Less:	Security Deposit	\$ 422.50	
	Credit on Tenant's account	\$ 10.72	
	Subtotal:		\$ 433.22
	Balance Owing		\$ 1,393.79

Conclusion

A Monetary Order in the amount of \$1,393.79 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) 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: May 22, 2013

Residential Tenancy Branch

