



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord requested compensation for unpaid rent, damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on March 29, 2013 at 9:19 a.m. each tenant was personally given copies of the Application for Dispute Resolution and Notice of Hearing, at the rental unit. The landlord has a document that each of the tenants signed, confirming receipt of the hearing package.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however neither tenant appeared at the hearing.

Preliminary Matters

The claim for compensation was in relation to unpaid rent only.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced in late 2012, a security deposit in the sum of \$850.00 was paid. A copy of a cheque issued to the landlord in the sum of \$850.00, dated September 15, 2012, was supplied as evidence. Rent was \$1,675.00 per month, due at the end of each month. The landlord has a copy of a signed tenancy agreement.

The landlord referenced a previous hearing (file 805453) that was held in March 2013, as the result of the tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. During the previous hearing the parties reached a mutual agreement to end the tenancy effective March 28, 2013. The agreement decision issued indicated

that the tenant acknowledged rent was owed to the landlord. The tenants did not vacate and on April 19, 2013 the landlord went to the Supreme Court to obtain a Writ of possession. A bailiff was then hired to remove the tenants.

The landlord provided affirmed testimony that the tenants failed to pay any rent from November 2012 to March 2013, inclusive in the sum of \$8,375.00 and he has claimed compensation in that sum.

The landlord provided copies of rent cheques that had been issued by the tenants; they were incorrectly written; for example the landlord's name was not fully notated and the amount of the cheque was written where the landlord's name should be written. When the cheques were taken to the bank the bank told the landlord the account did not have any funds.

Analysis

In the absence of either of the tenants, who were each served with Notice of this hearing, I find, on the balance of probabilities, that the landlord is entitled to compensation for unpaid rent as claimed in the sum of \$8,375.00 from November 2012 to March 2013 inclusive. The prior mutual agreement indicated that the tenant had acknowledge rent was owed and, based on the landlord's affirmed testimony and the evidence before me I find that the tenants have failed to pay rent.

I find that the landlord is entitled to retain the \$850.00 security deposit in partial satisfaction of the claims.

I find that the landlord's application has merit and that the landlord entitled to recover the \$100.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$7,625.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation for unpaid rent and filing fee costs.

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: June 20, 2013

Residential Tenancy Branch