



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenants did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions. During the Hearing the Landlord indicated that it no longer required an order of possession as the Tenants have moved out of the unit.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on March 23, 2013. Rent of \$855.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$427.50 as

a security deposit from the Tenant. The tenancy agreement provides for a \$20.00 late rent fee.

The Tenant failed to pay full rent for May 2013 and on May 17, 2013 the Landlord served the Tenant with a 10 notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Notice contains an effective date of May 27, 2013, automatically corrected to May 30, 2013 and the Tenant moved out of the unit on May 26, 2013. The Tenant has not made an application for dispute resolution and has not paid the arrears.

It is noted that the Notice sets out the amount of \$855.00 owed by the Tenants as of May 1, 2013 however the Landlord's financial records for the rent on this unit indicates that only 663.23 was owed, the Landlord having received \$240.00 on May 1, 2013. The Landlord confirmed that the correct amount owing as of May 1, 2013 is \$663.23. The Tenants allowed other occupants into the unit and these occupants were removed from the unit during the first week of June 2013. The Tenants left some belongings behind and the Landlord has stored these articles. The Landlord claims unpaid rent for May 2013, lost rental income for June 2013 and late fees for May and June 2013.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Noting the discrepancy between the actual rental amount owed by the Tenants on May 1, 2013 and the amount noted in the Notice as owed for May 1, 2013, I caution the Landlord to ensure that the amount indicated on a 10 day notice to end tenancy is the actual amount owed.

Based on the Landlord's evidence find that the Landlord has established a monetary claim for **\$663.23** in unpaid May 2013 rent and a late fee of **\$25.00**. As the tenancy ended on May 26, 2013, no further rent or late rent fees are payable after this date and I dismiss the Landlord's claim for late rent fee for June 2013. However given that the

Tenants left articles in the unit and allowed other occupants into the unit after May 26, 2013 until the first week of June 2013, I find that the Landlord has substantiated lost rental income of **\$427.50**. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary entitlement of **\$1,165.73**. Setting the security deposit of \$427.50 plus zero interest off the entitlement leaves **\$738.23** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$427.50.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$738.23**. If necessary, this order may be 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: June 19, 2013

Residential Tenancy Branch

