



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MND, MNDC, MNSD, FF

Introduction

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

The landlord provided affirmed testimony that on April 14 or 15, 2013 the tenant vacated the rental unit. The landlord was able to locate the moving van and the tenant's car at the tenant's new residence. On April 17, 2013 after attempting to reach agreement sent via text message, the landlord posted a Notice of Final Opportunity to Complete an Inspection Report, to the door of the tenant's new residence.

On April 17, 2013 the landlord received a text message from the tenant indicating that the landlord had now trespassed on the tenant's property and that she was not to do so again.

I find that the tenant's text message to the landlord confirmed that she does reside at the address where the landlord had posted the Notice of inspection report. On April 19, 2013 the landlord served copies of the Application for Dispute Resolution and Notice of Hearing via registered mail to the tenant's new address, the same address where the Notice of inspection had been posted. A copy of the envelope was supplied as evidence; the Canada Post stamp showed the mail had been unclaimed. A copy of the registered mail tracking number was also supplied as evidence of service.

I find, effective 5 days after mailing, that the tenant was served with Notice of this hearing; sent to the address where she resides. I find that the April 17, 2013 text message from the tenant confirmed that the landlord had posted the Notice at the tenant's address. Refusal to claim registered mail does not allow a party to avoid service.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Preliminary Matters

The landlord indicated she wished to proceed with the portion of the application requesting compensation for unpaid rent, retention of the security deposit and the filing

fee cost. The landlord withdrew the balance of the application and has leave to reapply within the legislated time-frames.

Issue(s) to be Decided

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

Is the landlord entitled to retain the security deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on November 1, 2011; rent was \$950.00 due on or before the 1st day of each month. A security deposit in the sum of \$475.00 was paid. A copy of the tenancy agreement was supplied as evidence.

The parties attended a previous hearing on March 21, 2013; the tenant had disputed a 10 Day notice to end tenancy for unpaid rent. At that hearing the parties reached a mutual agreement that the tenancy would end effective May 31, 2013.

The tenant vacated the unit on April 14 or 15, 2013; rent was not paid for April.

At the March 21, 2013 hearing the tenant had acknowledged that a previous rent reduction totaling \$450.00 would be returned to the landlord. The tenant did not return that sum. The landlord had given the tenant that reduction between December 2012 and February 2013, if the tenant agreed to unpack her belongings. The tenant had lived in the unit for over 1 year and had yet to unpack; making repairs difficult for the landlord.

When the tenant failed to unpack, as agreed, the landlord expected the rent to be paid in full, as the tenant had not met the terms of their verbal agreement. The landlord has claimed compensation for unpaid rent as follows:

- \$250.00 December 2012;
- \$150.00 January 2013;
- \$50.00 February 2013; and
- \$950.00 for April 2013.

The tenant paid March rent in full.

Analysis

In the absence of the tenant who was served with Notice of this hearing, I find, pursuant to section 67 of the Act, that the landlord is entitled to compensation for unpaid rent from December 2012 to April 2013, inclusive, in the sum of \$1,400.00.

The mutual agreement decision issued on March 21, 2013 indicated that the tenant had agreed to pay the outstanding rent owed to that time. I have considered the tenancy agreement terms, which required the tenant to pay \$950.00 each month. In the absence of a change to the terms of the tenancy, signed by each party, I find rent owed was \$950.00 per month and that the landlord's claim has merit. The landlord had been

willing to allow a rent reduction, but when the tenant failed to meet her end of the bargain, the balance of rent was owed.

I find that the landlord's application has merit, and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the \$475.00 security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order in the sum of \$975.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, 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.

The landlord is entitled to retain the security deposit.

The landlord is entitled to 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: July 11, 2013

Residential Tenancy Branch

