



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding J.D. Nelson&Assoc. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF, O

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent or utilities, to keep all or part of the security and pet damage deposits and recovery of the filing fee.

The Landlord attended the hearing by conference call. The Tenant did not attend or submit any documentary evidence. The Landlord states that the notice of hearing package and the submitted documentary evidence was served by Canada Post Registered Mail on June 13, 2013 and has submitted a copy of the Customer Receipt Tracking number as confirmation. I accept the undisputed evidence of the Landlord and find that the Tenant has been properly served.

At the beginning of the hearing the Landlord clarified that the Tenant had vacated the rental unit sometime between June 21 to June 23, 2013. As such no further action is required for the order of possession request.

The Landlord has also stated that he wished to amend the application for a monetary order to include claims for damages. The Landlord has failed to properly amend the application for dispute and serve it upon the respondent in accordance with the rules of procedure. I find that this is prejudicial to the Tenant and the Landlord's request to amend the monetary claim is dismissed. The Landlord is free to make a separate application for dispute resolution regarding a monetary claim for damages or loss. The hearing shall proceed on the original monetary claim filed on June 12, 2013.

During the hearing the Landlord also made a request for substitute service for delivery of the anticipated monetary order. The Landlord stated that he had previously served the notice of hearing package and documentary evidence to both the rental unit prior to the Tenant vacating and the Tenant's employer. The Landlord stated that the package was accepted by the employer after reviewing the online tracking from Canada Post.

The Landlord also stated in his direct testimony that the Tenant, K.S. indicated that he might be moving. *Residential Tenancy Guideline #12* deals with service of documents. With respect to substituted service the Guidelines state:

The party applying for substituted service must be able to demonstrate two things:

1. that the party to be served cannot be served by any of the methods permitted under the Legislation, and
2. that the substituted service is likely to result in the party being served having actual knowledge of what is being served

The Landlord's request for substitute service is premature at this time as he has not exhausted any of the methods permitted under the legislation, ie. personal service. The Landlord's Application for substitute service is dismissed with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security and pet damage deposits?

Background and Evidence

This Tenancy began on March 1, 2012 on a fixed term tenancy ending on February 28, 2013 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,400.00 payable on the 1st of each month and a security deposit of \$700.00 and a pet damage deposit of \$350.00 were paid.

The Landlord has provided a copy of the 10 day notice to end tenancy issued for unpaid rent dated June 6, 2013. The notice states that \$1,400.00 in rent was due on June 1, 2013 and was in arrears. The effective date of the notice is June 16, 2013.

The Landlord states that the Tenant was last seen at the rental unit on or about June 21, 2013. The Landlord states that the rental property was re-rented for July 1, 2013. The Landlord states that the Tenant did not attend for the scheduled condition inspection reports for the move-out and failed to return the keys to the rental unit forcing

the Landlord to change the locks. The Landlord states that the Tenant has abandoned the rental unit and has failed to communicate with the Landlord up to the date of this hearing.

The Landlord seeks recovery of June rent of \$1,400.00, a NSF charge of \$25.00 for the returned rent cheque for June 2013, \$469.94 for utilities that the Tenant is responsible for and \$158.34 for the cost of changing the locks. The Landlord has submitted copies of the 10 day notice to end tenancy issued for cause, a copy of the signed tenancy agreement, a receipt from Norkam Lock and Cycle and an invoice from the City of Kamloops for utility costs.

Analysis

I accept the undisputed evidence of the Landlord and find that a monetary claim for \$2,053.28 has been established. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$1,050.00 in combined security and pet damage deposits in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$1,003.28. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,003.28.
The Landlord may retain the security and pet damage deposits.

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

