



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPB, MNDC, FF
CNR, FF

Introduction

This hearing concerns 2 applications: i) by the landlords for an order of possession on the basis of breach of an agreement with the landlords / a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent / and recovery of the filing fee.

The landlords attended and gave affirmed testimony. Despite scheduling of the hearing in response to applications by both parties, the tenant did not appear.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on April 30, 2013. Monthly rent of \$1,200.00 is due and payable in advance on the last day of each month. A security deposit of \$600.00 and a pet damage deposit of \$600.00 were collected on March 22, 2013. Two tenants are named on the tenancy agreement: tenant "JP" (who is named in both applications for dispute resolution), and tenant "JT."

The tenants decided to end their relationship. By way of letter to the landlords dated June 18, 2013, tenant "JT" informed them that she had left the unit and had removed all her items. In her letter tenant "JT" also provided her forwarding address and requested the return of the pet damage deposit of \$600.00, which she claimed had been paid by her. The landlords testified that the pet damage deposit was thereafter repaid in full to tenant "JT." At this stage tenant "JP" continued to reside in the unit.

Arising from rent which was unpaid when due on July 1, 2013, the landlords issued a 10 day notice to end tenancy for unpaid rent dated July 3, 2013. The notice was posted on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 13, 2013. Subsequently, the tenant filed an application to dispute the notice on July 5, 2013, and the full amount of rent was paid on July 8, 2013. In exchange for payment of July's rent, the landlords issued a letter to tenant "JP" by date of July 8, 2013, in which it is stated in part, "received for use and occupancy only..."

During the hearing the landlords testified that tenant "JP" effectively vacated the unit on July 21, 2013, and that he has very recently informed them of his forwarding address. The landlords also testified that after tenant "JP" vacated, they found the unit to be in need of certain repairs.

As tenant "JP" has now vacated the unit, and as all rent has now been paid for July 2013, the landlords no longer seek an order of possession or a monetary order as compensation for unpaid rent for July 2013.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

The attention of the parties is drawn to section 45 of the Act which addresses **Tenant's notice**. The parties are also referred to Residential Tenancy Policy Guideline # 13, which speaks to "Rights and Responsibilities of Co-tenants." As well, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

In the absence of an appearance by the tenant, despite scheduling of the hearing in response to applications by both parties, the tenant's application is hereby dismissed in its entirety.

As the landlords' appearance at the hearing was a function of their own application and an application by the tenant, I find that the landlords have established entitlement to recovery of the \$50.00 filing fee. I order that the landlords may withhold this amount from the security deposit of \$600.00 at such time as the final disposition of the security deposit is resolved.

Conclusion

The tenant's application is hereby dismissed.

I order that the landlords may recover the \$50.00 filing fee by way of withholding that amount from the \$600.00 security deposit.

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: August 08, 2013

Residential Tenancy Branch

