



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNR, MNSD and FF

Introduction

This hearing was convened on the landlord's application of July 24, 2013 seeking an Order of Possession pursuant to a two-month Notice to End Tenancy for landlord use served on May 31, 2013 with an end of tenancy date of August 1, 2013. The landlord also sought a monetary award for unpaid rent or utilities, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord advised that the tenant vacated the rental unit on July 31, 2013 and that the Order of Possession was no longer required.

Despite having been served with the Notice of Hearing served in person on July 28, 2013, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence

Issue(s) to be Decided

This matter now requires a decision on whether the landlord is entitled to a monetary award for the claims submitted and in what amount.

Background and Evidence

This tenancy began on January 1, 2013 at a monthly rent of \$800 and the landlord holds a security deposit of \$400 paid on December 28, 2012. Under the agreement, the tenant is responsible for 40 per cent of the utilities.

During the hearing, the landlord gave evidence that the tenant had vacated on July 31, 2013 without participating in completion of the scheduled move-out condition inspection report, without returning keys and without providing a forwarding address. In addition, the tenant left a number of items behind which the landlord has had to store.

The landlord stated that she had been forced to end the tenancy due to a municipal order issued on February 4, 2013 to bring the basement suite rental unit to conforming status. The landlord initially issued a Notice to End Tenancy for cause on February 25, 2013 to comply with a government order. However, in an effort to assist the tenant, the landlord was able to have the municipal government extend its deadline and issued the two-month notice on May 31, 2013 to allow the tenant the one month's free rent for July 2013.

The landlord gave evidence, supported by bank statements, that the tenant still owed \$400 of the rent for June 2013.

In addition, the landlord submitted copies of utilities invoices from May, June and July 2013 showing that the tenant was in arrears by \$258.78.

In addition, I permitted the landlord to amend her application to add a claim for \$29 for expenses arising from the tenant's failure to return the keys.

Analysis

Section 67 of the *Act* authorizes the director's delegate to determine an amount owed by one party of a rental agreement to the other and to order payment of that amount.

In the present matter, in the absence of any evidence to the contrary, I find that the landlord is entitled to a monetary award for all claims submitted including the rent shortfall, unpaid utilities and costs for rekeying.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenant.

As authorized by section 72 of the *Act*, I order that the landlord retain the tenant's security deposit in set off against the balance owed.

Thus, I find that the landlord is entitled to monetary award calculated as follows:

Rent shortfall for June 2013	\$400.00
Unpaid utilities for May, June and July 2013	258.78
To rekey locks	29.00
Filing fee	<u>50.00</u>
Sub total	\$737.78
Less retained security deposit	- <u>400.00</u>
TOTAL remaining	\$337.78

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$337.78 for service on the tenant.

The landlord remains at liberty to make application for any further damage or losses ascertained at the conclusion of the tenancy.

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 29, 2013

Residential Tenancy Branch

