



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared; the tenant did not appear.

The landlord supplied evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on August 20, 2013. The landlord supplied the registered mail receipt containing the tracking number and the envelope sent to the tenant, as the registered mail went unclaimed.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The landlord said that the tenant has now vacated the rental unit and therefore no longer requires an order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recover the filing fee?

Background and Evidence

The landlord did not supply a written tenancy agreement.

The landlord stated that this tenancy began on March 1, 2013, and that the monthly rent obligation was \$650. In explanation the landlord said that when the tenancy began, two tenants moved in, each owing \$325 for their portion of rent. One tenant moved out at the end of July, leaving the above listed tenant.

The landlord gave evidence that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with the tenant, listing unpaid rent of \$650 as of August 1, 2013. The effective vacancy date listed on the Notice was August 31, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord said the tenant moved out on August 30, 2013, without making a rent payment for August and as a consequence, the tenant was deficient in rent in the amount of \$650 through that month.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

As mentioned, it was no longer necessary to consider the landlord's request for an order of possession for the rental unit.

I next considered the landlord's request for monetary compensation.

I find the landlord failed to prove that this tenant and the other unnamed tenant mentioned by the landlord were joint tenants, which means that each tenant would be

jointly and severally liable for the debts of the tenancy, and thus, making this named tenant responsible for the entire monthly rental obligation.

I find the testimony of the landlord indicates that the tenants were actually tenants in common, due to the statements by the landlord that each tenant was responsible for one half of the monthly rent.

Residential Tenancy Branch Policy Guideline 13 states that tenants in common share the same premises or portion of premises may enter into separate tenancy agreements with a landlord. A tenant in common has the same rights and obligations as an ordinary tenant with a separate tenancy, and is not responsible for debts or damages relating to the other tenancy.

As I have determined that this tenant was a tenant in common with the unnamed tenant not listed in this application, I find that the landlords have proven their monetary claim in the amount of \$325, one half of the monthly rent obligation.

I allow the landlords recovery of the filing fee of \$50.

I therefore find the landlords are entitled to a monetary award of \$375, comprised of outstanding rent of \$325 for this tenant through August, 2013, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlords' application is granted in part as I have found that they are entitled to a portion of their monetary claim.

I therefore grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$375, which I have enclosed with the landlords' Decision.

Should the tenant fail to pay the landlords this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicants and the respondent.

Dated: September 26, 2013

Residential Tenancy Branch

