



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and loss of rent revenue, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on July 30, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post receipt and tracking number was provided as evidence of service. The tenant was last seen at the rental unit on August 9, 2013.

The registered mail was returned to the landlord; however, a party may not avoid service by refusing to retrieve registered mail. Therefore, I find that these documents are deemed to have been served on the 5th day after mailing, in accordance with section 89 and 90 of the Act.

The tenant did not attend the hearing.

Preliminary Matter

The tenant vacated the unit in mid-August; the landlord does not require an Order of possession.

The landlord withdrew the claim for loss of September, 2013 rent revenue as the unit has been rented.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and loss of rent revenue?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on May 1, 2013; rent was \$825.00 per month, due on the 1st day of each month. A security deposit in the sum of \$412.50 was paid. A copy of the tenancy agreement was supplied as evidence.

The landlord stated that on July 3, 2013 a ten (10) day Notice to end tenancy for non-payment of rent, which had an effective date of July 16, 2013, was posted to the tenant's door.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$822.50 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice; July 16, 2013, unless the tenant filed an Application for Dispute Resolution within five days.

The site manager said the tenant did not vacate the unit on the effective date of the Notice and that he saw the tenant on the patio of her unit on August 9, 2013. Shortly after that time a notice of entry was posted and the landlord discovered the tenant had vacated the unit.

The landlord advertises on an on-going basis; using several popular web sites. They did not attempt to show this unit as it was not in a state that would attract renters and they were waiting for this hearing to obtain possession. The unit was rented effective September 1, 2013.

The landlord has claimed compensation in for unpaid July 2013 rent in the sum of \$822.50 and loss of August rent revenue of \$825.00 as the tenant over held beyond the effective date of the Notice.

Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on July 16, 2013, pursuant to section 46 of the Act. The tenant did not vacate the unit as required and did not pay July rent or any rent for the time she occupied the unit in August.

Therefore, as the landlord has provided evidence that the tenant over held beyond the effective date of the undisputed Notice, I find, in the absence of the tenant who was served with notice of this hearing, that the landlord is entitled to compensation for unpaid July rent and loss of August 2013 rent revenue in the sum of \$822.50 and

\$825.00, respectively, for a total of \$1,647.50. When the tenant failed to pay the rent owed she was required to vacate; but instead she remained in the unit, resulting in a loss of rent revenue to the landlord.

The landlord is entitled to retain the security deposit in the sum of \$412.50, in partial satisfaction of the monetary claim.

As the landlord's application has merit I find that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order for the balance owed of \$1,285.00. 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 a monetary Order for unpaid rent.

The landlord is entitled to filing fee costs.

The landlord may retain the security deposit.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 06, 2013

Residential Tenancy Branch

