



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; MNR; MND; MNDC, MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent, damages and loss of revenue, to retain the security deposit in partial satisfaction of her monetary claim; and to recover the cost of the filing fee from the Respondents.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents were mailed to each of the Tenants, via registered mail, on August 9, 2013. She stated that the registered mail was sent to CK at the rental unit and to LV at the forwarding address LV gave to the Landlord. She stated that LV had moved to her mother's house, where she was caring for her mother and where LV had a home based business. The Landlord provided the registered mail receipts and tracking numbers in evidence.

Based on the Landlord's affirmed testimony and documentary evidence, I am satisfied that both of the Respondents were duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Respondents did not sign into the teleconference and the Hearing proceeded in their absence.

Preliminary Matters

The Landlord testified that she issued a Notice to End Tenancy for Unpaid Rent on August 8, 2013, and that the rental unit was vacated at some point before August 26, 2013. She testified that on August 21, 2013, she posted a notice to access the rental unit on the door of the rental unit. On August 26, 2013, she entered the rental unit with police present and determined that it was vacant. The Landlord has taken back possession of the rental unit and therefore an Order of Possession is no longer required.

The Landlord testified that she and LV entered into a one year lease on July 1, 2012. A copy of the tenancy agreement was provided in evidence. The Landlord stated that in

November, 2012, LV asked for permission to sublet the rental unit to her cousin, CK. The Landlord testified that LV told her that CK would pay \$1,000.00 a month and that LV would pay the remaining rent in the amount of \$280.00. The Landlord suggested that LV could work out her own arrangement with CK, as long as the Landlord received all of the rent every month. The Landlord provided copies of bank statements and a deposit slip in evidence.

Based on the testimony and documents provided, **I find that the Landlord did not have a tenancy agreement with CK and that he was an occupant only.** Occupants have no rights or responsibilities under a tenancy agreement. **The Landlord's application against CK is dismissed and the Hearing proceeded against the Tenant LV only.**

Issues to be Decided

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

The Landlord gave the following testimony:

Monthly rent was \$1,280.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$640.00 at the beginning of the tenancy.

The Landlord testified that on May 12, 2013, CK left dog feces in the common area of the rental property and the Strata Corporation levied a \$200.00 fine. She stated that on May 17, 2013, CK damaged the drywall in the lobby of the rental property, for which a \$200.00 fine was also levied. The Landlord has also been billed for the cost of repairing the drywall in the amount of \$738.30. The Landlord seeks to recover the cost of the fines and the repairs from the Tenant.

The Tenant did not pay rent for August or September, 2013. The Landlord seeks to amend her application to include a monetary award for unpaid rent in the amount of \$1,280.00 for the month of August and \$1,280.00 for loss of revenue for September, 2013. The Landlord also seeks to increase her monetary claim for damages which have not yet been determined.

Analysis

Section 32(3) of the Act provides that tenants are responsible for damages that arise from the actions or neglect of their guests or other persons permitted on the residential property by the Tenant. The Landlord provided copies of the fine letters and the invoice for the cost of repairing the drywall, along with photographs taken by security cameras. The Landlord stated that the person depicted in the photographs is CK.

I accept the Landlord's evidence that the Tenant did not pay rent for August, 2013, and therefore she issued a Notice to End Tenancy on August 8, 2013 and posted it to the door of the rental unit. I accept the Landlord's testimony that the Tenant did not pay rent for August, 2013.

The Landlord is at liberty to file another Application for Dispute Resolution with respect to any additional damages.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of her monetary award.

The Landlord's application had merit and I find that she is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord with a monetary award, calculated as follows:

Unpaid rent for August, 2013	\$1,280.00
Loss of revenue for September, 2013	\$1,280.00
Recovery of strata fines	\$400.00
Cost of repairing wall	\$738.30
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$3,748.30
Less security deposit	<u>- \$640.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$3,108.30

Conclusion

I hereby provide the Landlord with a Monetary Order in the amount of **\$3,108.30** for service upon the Tenant LV. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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: October 16, 2013

Residential Tenancy Branch

