



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sooke Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR; MNSD; MNDC; FF

Introduction

This is the Landlords' application for a Monetary Order for unpaid rent; compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord's agents gave affirmed testimony at the Hearing.

Preliminary Matters

The Landlord's agent EM testified that she served the Tenant JM with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on June 12, 2013. The Landlords provided an Affidavit of Service in evidence. I accept that the Tenant JM was duly served with the Notice of Hearing documents.

The Landlord's agent EM testified that the Notice of Hearing documents were mailed to the Tenant AL, by registered mail on June 13, 2013, to the rental unit. She stated that the documents were returned to the Landlords. EM also testified that the Tenants moved out of the rental unit on June 15 or 16, 2013. Section 90 of the Act deems service by mail to be effective 5 days after mailing the document. At the time service was deemed, AL was no longer residing at the rental unit. Therefore, I find that the Tenant AL was not duly served with the Notice of Hearing documents.

Tenants are jointly and severally responsible for the payment of rent under a tenancy agreement. In other words, the Landlords may choose to seek a monetary award against one or both of the Tenants. The Landlords' agents chose to proceed against the Tenant JM only. The Landlords' application against the Tenant EM is dismissed without leave to reapply. It is up to the Tenants to apportion any monetary order that may be awarded between themselves.

Issues to be Decided

- Are the Landlords entitled to a Monetary Order for unpaid rent?
- May the Landlords apply the security deposit in partial satisfaction of their monetary award?

Background and Evidence

The Landlords' agents gave the following testimony and evidence:

This tenancy began on September 1, 2012. Monthly rent was \$900.00, due the first day of each month. The Tenants paid a security deposit in the amount of \$450.00 at the beginning of the tenancy.

The Tenants did not pay rent when it was due on April 1, 2013. On April 2, 2013, the Landlords served the Tenants with a Notice to End Tenancy for Unpaid Rent. On May 8, 2013, the Landlords made an application under the Direct Request Process for an Order of Possession and were successful.

The Tenants filed an Application for Review Consideration which was granted. A new Hearing was ordered. The New Hearing was held on June 12, 2013. The original Decision made May 8, 2013 was upheld and the Order of Possession confirmed.

The Landlord's agents testified that rent remains unpaid for the months of April, May and June, 2013, in the total amount of **\$2,700.00**.

Analysis

I accept the Landlord's agents' undisputed testimony that the Tenants owe outstanding rent in the amount of \$2,700.00.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of the award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenant JM.

I hereby provide the Landlords a Monetary Order against the Tenant JM, calculated as follows:

Unpaid rent	\$2,700.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$2,750.00
Less security deposit	<u>- \$450.00</u>
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$2,300.00

Conclusion

The Landlords are provided with a Monetary Order in the amount of **\$2,300.00** for service upon the Tenant JM. 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 01, 2013

Residential Tenancy Branch

