



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on February 14, 2011. Rent of \$980.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$487.50 as a security deposit from the Tenants. The Tenants failed to pay rent for August 2013 and on August 2, 2013 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the “Notice”) by posting the Notice on the door.

The Notice has an effective date of August 12, 2013. The Parties agree that all rents have been paid on August 3 and August 26 or 28, 2013. The Parties also agree that September 2013 rent was paid in full and on time. The Landlord states that receipts for the August and September 2012 rent payments were given to the Tenants indicating that the rent was accepted for "use and occupancy only". The Tenants states that the only receipts they have are bank receipts and that no receipts for use and occupancy only were given to the Tenants.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the landlord accepts rent after the effective date of the Notice, the intent of the parties will determine whether the tenancy has been reinstated. Given the Parties agreed evidence that the rent has been paid in full, considering the Tenant's evidence that no receipts were issued for use and occupancy only and considering that the Landlord has not provided copies of such receipts as evidence for this hearing, I find on a balance of probabilities that the Landlord has reinstated the tenancy. As such I dismiss the Landlord's application.

Conclusion

The application is dismissed. 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