



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting an Order of possession for unpaid rent, a monetary Order for unpaid rent and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that at approximately 7 p.m. on August 26, 2013 she and her husband met both tenants on the stairs to the rental unit. They told the tenants they had hearing papers for them; both tenants refused to accept the hearing packages.

Later that evening the landlord again attended at the rental unit with the occupant of the lower unit, in an attempt to serve the tenants. The witness, M.T. signed a proof of service document, confirming he was present at 8:25 p.m. when the landlord attempted to serve the tenants and they refused to accept service.

Refusal to accept personal delivery of documents does not avoid service. Therefore, these documents are deemed to have been served in accordance with section 89 and 90 of the Act; however neither tenant attended the hearing.

Preliminary Matters

The landlord said that on August 28, 2013 the tenants vacated the rental unit. They had been given a 10 day Notice to end tenancy, which had an effective vacancy date of August 23, 2013. The landlord does not require an Order of possession.

The landlord did not serve the tenants with the evidence package supplied to the Residential Tenancy Branch; therefore the landlord was at liberty to make oral submissions.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The 1 year fixed-term tenancy commenced on August 5, 2013, rent was \$1,350.00 per month, due on the first day of each month.

A security deposit was to be paid; the cheque was returned as NSF.

The tenants paid only \$100.00 cash, the August rent cheque was returned as NSF.

A 10 day Notice ending tenancy was issued, the tenants vacated after the effective vacancy date indicated on the Notice.

The landlord had claimed compensation in the sum of \$3,950.00 for unpaid rent as she was not sure when the tenants would vacate the unit.

Analysis

In the absence of evidence to the contrary, I find that the tenants failed to pay the rent owed for August 2013. The pro-rated sum, at \$44.38 per day from August 5 to August 31, 2013 is \$1,198.26. I find that the landlord is entitled to compensation for the pro-rated amount of rent for August 2013; less \$100.00 paid by the tenants; totalling \$1,098.26.

The balance of the claim is dismissed; the landlord has leave to reapply requesting compensation, outside of unpaid rent.

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

I find that the landlord has established a monetary claim, in the amount of \$1,148.26, which is comprised of unpaid August 2013 rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,148.26. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation for unpaid August 2013 rent in the sum of \$1,098.26. The balance of the claim is dismissed.

The landlord is entitled to filing fee costs.

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: October 04, 2013

Residential Tenancy Branch

