Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on September 27, 2013 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail, at the address noted on the Application. The Landlord submitted Canada Post Documentation that corroborates this statement. The Landlord stated that the service address used was a forwarding address provided by the Tenant on July 05, 2013. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act,* however the Tenant did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent and for "improvements" to the rental unit?

Background and Evidence

The Landlord stated that this tenancy began on September 01, 2012; that the fixed term of the tenancy ends on September 01, 2014; that the Tenant and a co-tenant agreed to pay monthly rent of $2,500.00 per month; that the Tenant has moved out of the rental unit, although she does not know when he moved; and that a co-tenant is still living in the rental unit. A copy of the tenancy agreement was submitted in evidence.

The Landlord stated that $2,425 of the rent for December of 2012 was not paid when it was due; that $2,425 of the rent for January of 2013 was not paid when it was due; that $2,425 of the rent for February of 2013 was not paid when it was due; that a $200.00 payment towards these arrears was made on July 19, 2013; and that a $500.00

payment towards these arrears was paid on March 01, 2013. The Landlord stated that she is only seeking to collect this rent from the Tenant, as he has indicated that he is assuming responsibility for paying the arrears.

The Landlord is seeking $225.00 in bank fees. The Landlord stated these fees were incurred because the Tenant had tendered cheques that were returned due to insufficient funds and the Landlord had to move accounts as a result of the dishonoured cheques.

The Landlord is seeking $5,000.00 for renovations to the house that were not completed. The Landlord stated that the Tenant agreed to complete a variety of renovations in exchange for the Landlord agreeing to a two year fixed term tenancy agreement. The Landlord submitted a copy of the addendum to their tenancy agreement, in which the agreed upon renovations were noted.

Analysis

On the basis of the undisputed evidence, I find that the rent is currently in arrears by $6,575.00.   As the Tenant is obligated to pay rent when it is due, pursuant to section 26 of the *Residential Tenancy Act (Act),* I find that the Tenant must pay $6,575.00 in unpaid rent to the Landlord. As this is a co-tenancy, the Landlord has the right to collect the arrears from either the Tenant or the co-tenant.

Section 7(1)(c) of the *Residential Tenancy Regulation* authorizes a landlord to recover a a service fee charged by a financial institution to the landlord for the return of a tenant's cheque. I find that the Landlord has submitted insufficient evidence to show that the Landlord paid bank fees of $225.00. In reaching this conclusion I was heavily influenced by the absence of evidence, such a bank statement, that corroborates the Landlord's testimony that fees in the amount of $225.00 were charged.

In reaching this conclusion I am cognizant of the email submitted in evidence, dated February 07, 2013, in which the Tenant expressed a willingness to pay $50.00 for a "December NSF ".   It is not clear to me why the Tenant has agreed to pay this specific amount, although there is nothing prohibiting the Tenant from willingly compensating the Landlord in this amount.   As this amount is greater than a bank typically charges for a returned cheque and it is greater than the amount the *Act* allows the Landlord to charge for a returned cheque, I cannot conclude that the Landlord is entitled to this amount.

In the aforementioned email the Tenant also expressed a willingness to pay interest on the arrears. The *Act* does not authorize a landlord to charge interest on rent arrears and I cannot, therefore, award compensation for interest.

I find that the claim for renovations is premature. Although the addendum to the tenancy agreement indicates that the Tenant agreed to complete several renovations, the addendum does not specify when the renovations will be completed. Given that this tenancy has not yet ended and there are more than ten months left in the fixed term of

the tenancy, I find that the Tenant has ample time to complete those renovations. I therefore dismiss the Landlord's claim for the cost of the renovations, with leave to reapply on this specific matter.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of $6,625.00, which is comprised of $6,575.00 in unpaid rent and $50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution and I grant the Landlord a monetary Order for the this amount. 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.

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: November 10, 2013

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Residential Tenancy Branch