



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Shapiro Apartments Ltd & Gateway Property Management Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNR

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant has also filed an application seeking to have the Ten Day Notice for Unpaid Rent or Utilities set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the tenant entitled to have the notice set aside?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about May 17, 2013. Rent in the amount of \$945.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$472.50. The tenant failed to pay rent in the month(s) of October 2013 and on October 2, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of November 2013. The landlords stated that the tenant has multiple options to pay his rent but chooses not to exercise any of them. The landlord stated that the tenant can drop off the rent in a mailbox designated for tenants, they can

make payment at the property managements head office or they can arrange with the resident manager of the building to give it to him directly. The landlords stated that as of today's hearing they are seeking the unpaid rent of October and November (1890.00) + (\$30.00 parking fee x 2 months) + (\$25.00 late fee X 2 months) = \$2000.00.

The tenant gave the following testimony:

The tenant stated that the landlords have not come by to pick up the rent. The tenant stated that the resident caretaker was overcharging him for parking and that "he was pocketing the money". The tenant stated he will not pay the late fees as he has been able to make payment on time but the building caretaker refuses to come pick up his money.

Analysis

Section 26 of the Act addresses the issue before me:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The landlord has provided several options of payment for the tenant, none of which that I find to be onerous or unreasonable. The tenant acknowledged that he has not paid the rent for the past two months. I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and although he did apply for dispute resolution to dispute the notice has not provided sufficient evidence for the notice to be set aside. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord has provided sufficient evidence for the recovery of the late fees and I find that the landlord is entitled to the recovery of those costs as per their tenancy agreement. The landlord has not provided sufficient evidence in regards to the parking fees and I therefore dismiss that portion of their application.

As for the monetary order, I find that the landlord has established a claim for \$1940.00 in unpaid rent and late fees. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$472.50 deposit. I grant the landlord an order under section 67 for the balance due of \$1517.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1517.50. The landlord may retain the security deposit.

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 13, 2013

Residential Tenancy Branch

