



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with a landlord's Application for an Order of Possession for unpaid rent and a Monetary Order for unpaid and/or loss of rent and parking; and, authorization to retain all or part of the security deposit. The tenant did not appear at the hearing. The landlord submitted a registered mail receipt, and tracking number, as proof of service the hearing documents were sent to the tenant on September 27, 2013. The landlord stated the tenant did not pick up the registered mail and the documents were then posted to the tenant's door on October 19, 2013. Section 90 of the Act deems a person to be in receipt of documents five days after mailing so that a person cannot avoid service by refusing to accept or pick up their mail.

I was satisfied the landlord had served the Application for Dispute Resolution upon the tenant in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

The landlord stated that the tenant has since paid all of the rental arrears and the tenancy has been reinstated. Accordingly, the landlord wished to withdraw its request for an Order of Possession. The landlord submitted that the only outstanding issue is recovery of the filing fee the landlord paid for this Application for Dispute Resolution.

Issue(s) to be Decided

Was the landlord's Application with merit and should the tenant be ordered to pay the landlord for the filing fee paid for this Application?

Background and Evidence

The landlord submitted that the tenant is required to pay rent of \$1,315.00 on the 1st day of every month and parking in the sum of \$55.00 per month. On September 11, 2013 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent on the door of the

rental unit as the tenant had failed to pay rent for September 2013. The landlord filed this Application for Dispute Resolution on September 26, 2013 and on October 9, 2013 a payment of \$1,500.00 was received from the tenant. More recently, a payment of \$2,800.00 was received from the tenant leaving a credit balance of \$95.00 after applying rent for October and November 2013.

Analysis

Upon review of the evidence before me, I am satisfied the tenant had failed to pay rent when due and did not pay the outstanding rent within five days of receiving the 10 Day Notice. Therefore, I find the landlord's Application for Dispute Resolution was with merit and I order the tenant to pay the landlord \$50.00 in order to recover the filing fee paid for this Application for Dispute Resolution.

Provided to the landlord with this decision is a Monetary Order in the amount of \$50.00. I authorize the landlord to satisfy this Monetary Order by way of debiting the tenant's ledger account and reducing the current credit balance. Alternatively, the landlord may serve the Monetary Order upon the tenant and demand payment.

Conclusion

The landlord withdrew its application for an Order of Possession as the tenancy was subsequently reinstated. The tenant has been ordered to pay the landlord \$50.00 in order for the landlord to recover the cost of filing this Application for Dispute Resolution.

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 05, 2013

Residential Tenancy Branch

