



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, OPR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for unpaid rent.

The landlord provided affirmed testimony that the female tenant was served with Notice of this hearing, sent via registered mail to the rental unit on July 31, 2013. The landlord read from the Canada Post receipt and provided a tracking number, as evidence of service.

Therefore, I find that the female respondent was served effective the 5th day after mailing; August 5, 2013. The male tenant was present at the hearing; he confirmed receipt of the hearing package on August 2 or 3, 2013.

At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process.

The landlord did not make any written evidence submissions.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent in the sum of \$9,000.00?

Background and Evidence

The landlord said that the tenant owes him \$9,000.00 for rent of a home; at \$1,700.00 per month plus \$300.00 per month for rental of a garage. The garage rental was negotiated after the tenancy commenced.

The landlord did not supply any evidence; a tenancy agreement or record of payments made or any other documents in support of the claim. The landlord said that the tenant owes utility costs; the application indicated only: "The tenant has not paid the rent."

The tenant said that he owes the landlord \$2,300.00 rent for June and July, 2013. The landlord said the tenant owed him \$2,600.00 plus utilities.

The landlord has also claimed compensation for unpaid August rent. The parties agreed that by mid-August the tenants had vacated the unit. The tenant said this was by mutual agreement, confirmed through text messages. The landlord said that he has tried to assist the tenant and his family, but now he has lost August rent revenue as the tenant did not give proper notice ending the tenancy. It was not until the hearing documents were given to the tenant that the tenants vacated.

The parties agreed that the landlord is holding a security deposit in the sum of \$1,700.00.

Analysis

In the absence of any evidence that a tenancy even existed, I find that the sum owed to the landlord is based solely on the tenant's agreement that rent is due to the landlord. The landlord had the burden of proving his claim; however, no details of the claim were provided. The application indicated that only rent was owed.

Therefore, based on the testimony of the tenant, agreeing that he owes the landlord \$2,300.00; I find that the landlord is entitled to compensation in that sum for unpaid rent to July 31, 2013.

In the absence of any evidence revealing the text messages sent between the parties, I find on the balance of probabilities, that it is just as likely that the parties had reached a mutual agreement to end the tenancy. Therefore, I find that the landlord is entitled to compensation for unpaid rent for the first 2 weeks of August, 2013 in the sum of \$850.00.

I find that any dispute in relation to the rent of a garage is not within the jurisdiction of the Residential Tenancy Act.

Section 72(2) of the Act provides a dispute resolution officer with the ability to deduct any money owed by a tenant to a landlord, from the deposit due to the tenant. Therefore, I find that the landlord may retain the tenant's security deposit in the amount of \$1,700.00, in partial satisfaction of the monetary claim. I note the landlord is holding a security deposit that is double the sum allowed by the legislation.

Based on these determinations I grant the landlord a monetary Order for the balance owed in the sum of \$1,450.00. 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 satisfies any claim for unpaid rent; the balance of the claim is dismissed.

Conclusion

The landlord is entitled to compensation in the sum of \$3,150.00 for rent owed from to August 2013.

The landlord will retain the \$1,700.00 security deposit in partial satisfaction of the claim.

The balance of the claim is dismissed.

Jurisdiction is declined in relation to rental of the garage.

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: September 09, 2013

Residential Tenancy Branch