



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application by the landlord for an Order for Possession, Monetary Order for compensation for loss of revenue, to recover the filing fee for this proceeding and to keep the tenant's security deposit in partial payment of those amounts. Only the landlord and his agent attended.

Issues(s) to be Decided

Is the Landlord entitled to an Order for possession and compensation and if so, how much?

Background and Evidence

The landlord's agent T.D. testified that the dispute resolution package was sent by registered mail on November 13, 2013 and that the tenant moved out on November 15, 2013 without providing any forwarding address. Having regard to Canada Post's web site I determined that the item was attempted to be delivered on November 14, 2013 and that a card was left at that address notifying the tenant of the delivery. I therefore find that the tenant was deemed to have received the documents by November 14, 2013 and therefore that the tenant has been sufficiently served in accordance with the Act.

Based upon the evidence of T.D. I find that this one year fixed term tenancy started on August 1, 2013 and ended on November 15, 2013 when the tenant moved out. Rent was \$ 2,400.00 per month payable in advance on the 1st day of each month. The tenant paid a security deposit of \$ 1,200.00 at the beginning of the tenancy. The landlord testified that he placed advertisements on line commencing in November but to date has been unable to re-rent the unit. The landlord is claiming the total sum of \$ 4,800.00 as loss of rent for November and loss of revenue for December 2013.

Analysis

As the tenant has moved out I have dismissed the landlord's claim for a Order for Possession.

I find based upon the evidence of the landlord and in absence of any evidence from the tenant that all of the items claimed by the landlord are reasonably claimed and that he landlord mitigated his loss. I find that the landlord has proven a claim totalling \$ 4,800.00. As the landlord has been successful in this matter, I find pursuant to s. 72 of the Act that he is entitled to recover the \$50.00 filing fee for this proceeding. I order the landlord pursuant to s. 38(4) of the Act to retain the tenant's security deposit inclusive of interest amounting to \$ 1,200.00 in partial payment of the rent arrears. The landlord will receive a Monetary Order for the balance owing.

Conclusion

In summary I ordered that the respondent pay to the applicant the sum of \$ 4,800.00 in respect of this claim plus the sum of \$ 50.00 in respect of the filing fee for a total of \$ 4,850.00. I order that the landlord retain the security deposit amounting to \$ 1,200.00 inclusive of interest. I grant the landlord a Monetary Order in the amount of **\$ 3,650.00** and a copy of it must be served on the tenant. If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: January 06, 2014

Residential Tenancy Branch

