



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlords' agent.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on October 29, 2013 in accordance with Section 89.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for overholding of the rental unit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Act*.

Background and Evidence

The landlord testified that a tenancy agreement was signed by the parties on November 30, 2011 for a tenancy beginning on December 1, 2011 for a monthly rent of \$750.00 due on the 1st of each month with a security deposit of \$375.00 and a pet damage deposit of \$150.00 paid.

The landlord obtained an order of possession through a Direct Request Proceeding concluded on July 24, 2013. The landlord served the tenant with the order of possession obtained through this process on August 29, 2013. The order of possession ordered the tenant to vacate the rental unit 2 days after service of the order.

The landlord allowed the tenant to remain in the rental unit and accepted payment of \$750.00 for use and occupancy only on September 16, 2013 for the month of September 2013. The tenant remained in the rental unit until the landlord enforced the order of possession on November 20, 2013 after obtaining a Writ of Possession from the Supreme Court of British Columbia and hiring a bailiff to have the tenant removed from the property.

The landlord testified that they made many attempts to contact the tenant and that for much of the period had little direct contact with her. Rather they would have to leave messages and the tenant would leave messages in return. Throughout the period of October 1, 2013 to November 20, 2013 the tenant failed to pay any compensation to the landlord for remaining in possession of the rental unit.

Analysis

Based on the undisputed testimony I accept the tenant failed to compensate the landlord for overholding the rental unit for two months. I find the tenant maintained occupancy of the rental unit contrary to an order the landlord obtained from an Arbitrator and as a result the landlord has suffered a loss of revenue as they were not able to re-rent the unit to a new tenant.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$1,550.00** comprised of \$1,500.00 monies owed for use and occupancy and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 05, 2014

Residential Tenancy Branch

