



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 25, 2013, by the Landlords to obtain a Monetary Order for: unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee from the Tenant for this application.

The Landlords provided affirmed testimony that they served the Tenant with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and evidence, on October 26, 2013, by registered mail. Canada Post tracking information was provided in the Landlords' testimony. The Landlords stated that the Canada Post tracking website indicated that the registered mail package was signed received on October 30, 2013. Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding in accordance with the *Act*; therefore, I proceeded in the Tenant's absence.

Issue(s) to be Decided

Are the Landlords entitled to a monetary order pursuant to section 67 of the *Residential Tenancy Act*?

Background and Evidence

The Landlords provided evidence that the parties executed a written tenancy agreement for a month to month tenancy that commenced on December 15, 2005. The Tenant was required to pay rent of \$800.00 on the first of each month and on January 15, 2006 the Tenant paid \$400.00 as the security deposit.

The Landlords testified that the Tenant fell behind in the payment of his rent so the parties mutually agreed that the tenancy would end effective April 30, 2012. The Landlord attended the property on April 30, 2012, with a witness, and presented a promissory note to the Tenant to sign which stipulated that the Tenant agreed to pay the

three months of outstanding rent of \$2,400.00 that accumulated from February, March, and April 2012, as well as payment for the outstanding utilities. The promissory note outlined a payment plan for the Tenant to pay three payments to clear off the balance owing for rent, as per the copy provided in the Landlords' evidence.

The Landlords stated that the Tenant had possessions remaining in the unit until May 2nd or 3, 2012 and the Tenant paid off the utilities but he never made any payments towards the outstanding rent. The Landlords now seek a Monetary Order for the unpaid rent.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

Section 26 of the Act stipulates that a tenant must pay rent when it is due, in accordance with the tenancy agreement.

In this case the Tenant was required to pay rent of \$800.00 on the first of each month, in accordance with the tenancy agreement. When the Tenant failed to pay rent for February, March, or April 2012 he signed a promissory note agreeing to payment terms. That being said, the evidence indicates that the Tenant did not make the required rent payments in accordance with the tenancy agreement or the promissory note. Therefore, I find the Landlords have met the burden of proof and I award them compensation for three months rent (February, March, and April 2012) in the amount of **\$2,400.00**.

The Landlords have been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlords are entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

Unpaid Rent, (3 x \$800.00)	\$2,400.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$2,450.00
LESS: Security Deposit \$400.00 + Interest 14.12	<u>-414.12</u>
Offset amount due to the Landlords	<u>\$2,035.88</u>

Conclusion

The Landlords have been awarded a Monetary Order in the amount of **\$2,035.88**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court 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: February 05, 2014

Residential Tenancy Branch

