



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES INC. and VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt 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, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord submitted that the hearing documents were sent to the tenant via registered mail at the rental unit on December 5, 2013. At that time the tenant was still occupying the rental unit. The landlord provided a copy of the registered mail receipt, including the tracking number, as proof of service. I was satisfied the tenant was served with the hearing documents in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

At the commencement of the hearing the landlord confirmed that the tenant vacated the rental unit in mid-December 2013 and, as such, no longer requires an Order of Possession. Therefore, the remainder of this decision deals with the landlord's monetary claim only.

Issue(s) to be Decided

1. Is the landlord entitled to a Monetary Order for unpaid and/or loss of rent?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The month-to-month tenancy commenced June 1, 2013 and the tenant paid a security deposit of \$415.00. The tenant was required to pay rent of \$830.00 on the 1st day of every month.

The tenant failed to pay rent for November 2013 and on November 8, 2013 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) with a stated effective date of November 21, 2013 indicating rent of \$830.00 was outstanding as of November 1, 2013. The tenant did not pay the outstanding rent for November 2013, did not pay any monies for the month of December 2013, and vacated the rental unit December 14 or 15, 2013.

In filing this application the landlord requested compensation for unpaid and/or loss of rent for the months of November 2013 through January 2014; however, during the hearing reduced the claim to unpaid and/or loss of rent for the months of November and December 2013.

Documentary evidence provided for this proceeding included copies of: the tenancy agreement; the 10 Day Notice; a signed Proof of Service for the 10 Day Notice; an authorization letter for the agent to act on behalf of the landlord in this matter; and, the registered mail receipt.

Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement, even if the landlord has violated the Act, regulations or tenancy agreement; unless, the tenant has a legal right to withhold rent. I was not presented any evidence to suggest the tenant had a legal right to withhold rent. Where a tenant fails to pay rent, the landlord is at liberty to serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

When a tenant receives a 10 Day Notice, the tenant has five days to pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice; otherwise, the tenant must vacate the rental unit by the effective date of the Notice.

Upon review of the undisputed evidence presented to me, I find the tenant violated the Act by failing to pay rent that was due to the landlord for the month of November 2013 and violated the Act by failing to vacate the rental unit by the effective date of the 10 Day Notice. I find that the tenant's actions caused the landlord to incur loss of rent for the months of November 2013 and December 2013. Therefore, I grant the landlord's claim to recover \$1,660.00, as claimed.

I further award the landlord recovery of the filing fee paid for this application and I authorize the landlord to retain the security deposit in partial satisfaction of the unpaid rent.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Unpaid Rent: November 2013	\$ 830.00
Loss of Rent: December 2013	830.00
Filing fee	50.00
Less: security deposit	<u>(430.00)</u>
Monetary Order	\$1,280.00

To enforce the Monetary Order it must be served upon the tenant and it may be filed in Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The landlord has been authorized to retain the security deposit and has been provided a Monetary Order for the balance of \$1,280.00 to serve and enforce as necessary.

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 07, 2014

Residential Tenancy Branch

