



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on January 20, 2014. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

At the start of the conference call the Landlord said the Tenants moved out of the unit sometime in January, 2014 so she no longer requires an Order of Possession. The Landlord withdrew her application for an Order of Possession.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on September 1, 2012 as a 1 year fixed term tenancy with an expiry date of August 31, 2013 and then continued on a month to month basis. Rent is \$1,240.41 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$597.50 in advance of the tenancy.

The Landlord said that the Tenant did not pay \$1,240.41 of rent for January, 2014 when it was due and as a result, on January 7, 2014 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated January 7, 2014 on the door of the Tenants' rental unit.

Further the Landlord also sought to recover a \$25.00 late payment fee that is written into the Tenancy agreement for the January, 2014 rent payment and the Landlord requested to recover the \$50.00 filing fee for this proceeding.

The Landlord also indicated that after she filed this application the Tenant did not return the keys for the doors and mail box and the Landlord had to change the locks and replace the keys. The Landlord provided an invoice for the costs of these items in the amount of \$465.00. The Landlord said the Tenant was given an information sheet at the start of the tenancy indicating the cost of these items if the items were not returned at the end of the tenancy. The Landlord requested these costs be included in the application as she could not include these costs when the application was filed on January 17, 2014.

The Landlord said her total claim is for \$1,780.41.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant did not have the right under the Act to withhold part or all of the rent for January, 2014, therefore I find in favour of the Landlord for the unpaid rent of \$1,240.41.

Further I find that the Landlord is entitled to recover the late charge of \$25.00 for January, 2014 as there is a late fee clause in the tenancy agreement which is clause number 10.

In addition I accept the Landlord's request for damages that resulted from the Tenant not returning the keys to the doors and mail box in the amount of \$465.00 to replace the keys and locks. The Landlord is responsible to prove a loss and verify that loss which the Landlord has done by providing the invoice which the Landlord has submitted into evidence.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$1,240.41
	Late fee	\$ 25.00
	Replacement of keys and lock	\$ 465.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$1,780.41
Less:	Security Deposit	\$ 597.50
	Subtotal:	\$ 597.50
	Balance Owing	\$ 1,182.91

Conclusion

A Monetary Order in the amount of \$1,182.91 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: March 05, 2014

Residential Tenancy Branch

