



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MND, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

As the landlord testified that the tenant has vacated the unit, I consider the application for an order of possession to be withdrawn.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the 1 year fixed term of tenancy began on June 01, 2013. Monthly rent of \$3,500.00 was due and payable in advance on the first day of each month, and a security deposit of \$1,750.00 was collected. A move-in condition inspection report was completed.

The landlord testified that the tenant's rent cheques for November and December 2013 were unable to be cashed due to insufficient funds (NSF), and that the tenant abandoned the unit sometime around mid-December 2013. The landlord testified that cleaning was required in the unit and the tenant failed to return an entrance key FOB. A move-out condition inspection report was not completed. While the tenant did not inform the landlord of a forwarding address, the landlord testified that the address

shown on the tenant's driver's license (which was the same address shown elsewhere in documents provided by the tenant to the landlord) was used to serve the hearing package. As earlier noted, the hearing package was "successfully delivered."

Subsequently, new renters were found for the unit effective from January 15, 2014.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established a claim of **\$7,100.00**, as follows:

\$3,500.00: *unpaid rent for November 2013*

\$3,500.00: *unpaid rent for December 2013*

\$100.00: *filing fee*

Section 72 of the Act speaks to **Director's orders: fees and monetary orders**, and provides in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of **\$1,750.00**, and I grant the landlord a **monetary order** for the balance owed of **\$5,350.00** (\$7,100.00 - \$1,750.00).

In the absence of a move-out condition inspection report, or receipts, or evidence pertinent to efforts undertaken by the landlord to mitigate the loss of rental income following the tenant's having abandoned the unit, the application to recover the following costs is hereby dismissed:

\$100.00: *replacement of key FOB*

\$350.00: *cleaning in the unit*

\$1,750.00: *loss of rental income from January 1 to 14, 2014*

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$5,350.00**. Should it be necessary, this order may be served on the tenant, filed in the 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: March 27, 2014

Residential Tenancy Branch

