



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lightening Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC, MNSD; FF

Introduction

This is the Landlord's application for compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that on February 14, 2014, the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to the Tenant, via registered mail, to the Tenant's forwarding address. The Landlord provided a copy of the Tenant's letter enclosing his forwarding address. The Landlord's agent provided the tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Issues to be Decided

- Is the Landlord entitled to a monetary award for loss of revenue for the month of February, 2014?

Background and Evidence

The Landlord's agent gave the following testimony:

The Tenant and the Landlord verbally agreed that the Tenant would rent the rental unit. The Tenant was to take possession of the rental unit on February 1, 2014. The Tenant provided the Landlord with a security deposit in the amount of \$225.00 on January 27, 2014. Monthly rent was \$550.00 per month, due the first day of each month.

On January 28, 2014, the Tenant went to the Landlord's office and paid February's rent. He was drunk. An hour later, the Tenant returned and demanded the money back, stating that he had changed his mind and that he was not going to rent the rental unit. The Tenant was abusive and argumentative. The Landlord's agent returned the Tenant's rent in the amount of \$550.00 and obtained a receipt from the Tenant acknowledging return of the money. A copy of the receipt was provided in evidence.

The Landlord was not able to re-rent the rental unit until February 19, 2014. The new occupant paid \$170.00 in pro-rated rent for the month of February, 2014. The Landlord seeks a monetary award for loss of income for the month of February, calculated as follows:

| | |
|--------------------------|-----------------|
| February rent | \$550.00 |
| Amount new occupant paid | <u>\$170.00</u> |
| Total loss of revenue | \$380.00 |

Analysis

I accept that the Landlord's agent's undisputed affirmed testimony in its entirety.

The Act defines tenancy agreement as, "an agreement, whether oral or written, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit".

I find that the parties had an oral tenancy agreement. The Tenant paid a security deposit and the first month's rent. I find that the Tenant breached the Act by not providing due notice that he was ending the tenancy and that the Landlord suffered a loss as a result of the Tenant's breach of the Act.

I find that the Landlord's agent has established a monetary award for loss of revenue in the total amount of \$380.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary award.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

| | |
|---|-------------------|
| Loss of revenue | \$380.00 |
| Recovery of the filing fee | <u>\$50.00</u> |
| Subtotal | \$430.00 |
| Less security deposit | <u>- \$225.00</u> |
| TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF | \$215.00 |

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of **\$215.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: May 29, 2014

Residential Tenancy Branch

