



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, O

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent and utilities.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord states that the tenants were served with the notice of hearing package by Canada Post Registered Mail on May 8, 2014 and has provided in his documentary evidence, copies of the Canada Post Registered Mail Customer Receipt Tracking numbers as confirmation. The landlord has also provided documentary evidence printouts of the Canada Post Online Tracking search that shows that the tenant signed in receipt of the notice of hearing package on May 9, 2014. As such, I am satisfied that the landlord has properly served the tenants with the notice of hearing and submitted evidence package.

The landlord clarified at the outset of the hearing that the tenants had vacated the rental unit on or about May 9, 2014 and did not provide a forwarding address in writing. As such, the landlord no longer requires an order of possession.

At beginning of the hearing it was clarified with the landlord that although he filed a monetary work sheet in his documentary evidence for a monetary claim of \$7,808.25, the landlord's application displays a monetary claim of \$7,200.00. The landlord failed to file an amended application to increase the monetary claim nor did the landlord serve the tenant with notice of an amendment. As such, the landlord's monetary claim is limited to the monetary application amount of \$7,200.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on May 1, 2013 on a fixed term tenancy ending on April 30, 2014 as shown by the submitted copy of the signed tenancy agreement. The tenants vacated the rental unit on May 9, 2014. The monthly rent was \$2,190.00 payable on the 3rd of each month and a security deposit of \$1,095.00 was paid on May 1, 2013.

The landlord seeks a monetary claim of \$7,200.00 which consists of unpaid rent of \$6,570.00 for March, April and May. The landlord states that the tenants failed to pay utilities of \$468.25 for the period January 22, 2014 to March 20, 2014 of \$302.14 and for the period of March 21, 2014 to May 31, 2014 of \$166.11. The landlord also seeks recovery of costs of \$230.00 for rekeying of the rental unit door, mailbox and the garage fob.

The landlord states that the tenants were served with a 10 day notice to end tenancy issued for unpaid rent dated April 15, 2014 which states that the tenant failed to pay rent of \$2,190.00 that was due on March 3, 2014. The notice states an effective end of tenancy date of April 25, 2014. The landlord has provided a copy of the proof of service document which states that the tenant's father, A.Y. signed in receipt of the notice on April 15, 2014. The landlord clarified that the tenants failed to pay any rent for March, April and May and did not provide any notification that they were vacating the rental unit.

The landlord states that the tenants failed to return a door key, mailbox key and a garage fob requiring the landlord to rekey all three. The landlord states that he does have receipts for the rekeying but failed to provide them for the hearing. The landlord relies on addendum condition #9, which states, "...If the keys are not returned the Tenant will owe to the Landlord, the following: \$90.00 to re-key the doors, \$50.00 per garage door remote, \$90.00 to re-key the mailbox."

The landlord also states that the tenants failed to pay utilities totalling, \$468.25 for two periods of billing from January 22, 2014 to March 20, 2014 and March 21, 2014 to May 31, 2014. The landlord has provided copies of the two BC Hydro invoices.

The landlord has provided a written estimate which shows that \$440.00 in cleaning costs are required on two occasions on May 24, 2014 for \$240.00 for 3 cleaning staff at 4 hours and again on May 31, 2014 for \$200.00 for 2 cleaning staff at 5 hours. The landlord relies on an incomplete condition inspection report dated May 31, 2014.

Analysis

I accept the undisputed testimony of the landlord and find that the tenants were properly served with the 10 day notice to end tenancy issued for unpaid rent dated April 15, 2014 by personally serving the tenants father, A.Y. at the rental unit on April 15, 2014. The tenant failed to pay any rent within the allowed limitation period after the notice was served. The tenant is deemed to have accepted that the tenancy was at an end. The landlord has established based upon his undisputed testimony that the tenant over held the rental unit until May 9, 2014. I find that the landlord has established a claim for unpaid rent and loss of rental income totalling, \$6,570.00. I also find based upon the undisputed evidence of the landlord that the tenants failed to pay utilities of \$468.25.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

As for the landlord's claim for recovery of \$440.00 for cleaning and \$230.00 for re-keying the door, mailbox and garage fox, I find on a balance of probabilities that I accept the landlord's undisputed evidence that the tenants failed to return the missing keys/fob and that the tenants left the rental unit in a state that required cleaning. The landlord has provided a copy of the addendum to the tenancy agreement agreeing to the payment for each of the missing keys/fob. The landlord has also provided a copy of a incomplete condition inspection report which indicates that the tenant left rental unit in condition that required cleaning. However, the landlord has failed to provide any invoices or receipts to show an actual amount required to compensate for the claimed loss. The landlord has failed to establish a claim for the amount sought, but has satisfied me that a loss occurred as a result of the tenancy. As such, I grant a nominal award for \$400.00 for both the cleaning and re-keying.

The landlord has established a total monetary claim of \$7,438.25. The landlord's monetary claim is limited to the \$7,200.00 amount applied for in this hearing.

The landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order under section 67 for the balance due of \$7,300.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$7,300.00.

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: June 25, 2014

Residential Tenancy Branch

