



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0879921 BC Ltd. / Emerge Realty Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF
CNR

Introduction

This hearing was scheduled in response to 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that the landlord's application for dispute resolution and notice of hearing (the "hearing package") was served on the tenant, and that the tenant's hearing package was served on the landlord. As the landlord's agent also testified that the tenant has now vacated the unit, I consider the landlord's application for an order of possession to be withdrawn.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on July 01, 2012. Monthly rent and payment for parking are both due and payable in advance on the first day of each month. Monthly rent at the start of tenancy was \$850.00, however, the landlord's agent testified that it was increased to \$868.00 effective May 01, 2014. The tenancy agreement provides that the fee for monthly "uncovered" parking is \$25.00.

The tenancy agreement provides that a security deposit of \$425.00 was collected. As to a pet damage deposit, a ticked box on the tenancy agreement appears to indicate

that it is “not applicable,” even while the amount of \$425.00 still appears adjacent to “pet damage deposit” on the tenancy agreement.

There is no move-in condition inspection report in evidence.

Arising from rent (\$868.00) and parking (\$25.00) which remained unpaid when due on May 01, 2014 (total: \$893.00), the landlord issued a 10 day notice to end tenancy dated May 31, 2014. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is June 10, 2014. Subsequently, while the tenant made no payment toward either rent or parking, he continued to reside in the unit.

A further 10 day notice was issued by date of June 03, 2014. While the tenant filed an application to dispute the notice on June 05, 2014, the landlord’s agent testified that the tenant made no further payment toward either rent or parking. Thereafter, it was determined on or about July 08, 2014, that the tenant had vacated the unit. No forwarding address was provided by the tenant to the landlord.

The landlord’s agent testified that the unit required cleaning and removal of rubbish before it could be re-rented, and that no new renters have presently been found. There is no move-out condition inspection report in evidence.

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

As to compensation, based on the documentary evidence and the affirmed / undisputed testimony of the landlord’s agent, I find that the landlord has established a claim of **\$2,282.50**:

\$893.00: *unpaid rent / parking for May*

\$893.00: *unpaid rent / parking for June*

\$446.50: *unpaid rent / loss of rental income / parking for July*

\$50.00: *filing fee*

In the absence of the comparative results of move-in and move-out condition inspection reports, or documentary evidence of advertising undertaken by the landlord to mitigate the loss of rental / parking income for July, compensation awarded for July is limited to \$446.50, or half the amount sought by the landlord.

In the absence of any provision in the tenancy agreement for the assessment of an “admin. fee” for late payment of rent, this aspect of the landlord’s application is hereby dismissed. In this regard the attention of the parties is drawn to section 7 of the Regulation which addresses **Non-refundable fees charged by landlord**.

As to the claim for unpaid utilities, I note there is no indication on either of the 10 day notices of any particular amounts which remain unpaid for utilities. Further, there is no documentary evidence before me of utilities invoices in support of this aspect of the claim. In the result, this portion of the claim is hereby dismissed.

Section 72 of the Act addresses **Director’s orders: fees and monetary orders**, in part:

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.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord’s agent, I find on a balance of probabilities that while a security deposit was collected, a pet damage deposit was not. I order that the landlord retain the security deposit of **\$425.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,857.50** (\$2,282.50 - \$425.00).

Conclusion

The tenant’s application for cancellation of a notice to end tenancy is hereby dismissed.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,857.50**. 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: July 24, 2014

Residential Tenancy Branch

