



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, FF
MT, CNR, OLC, LRE

Introduction

This hearing concerns 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 more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy for unpaid rent or utilities / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / and an order suspending or setting conditions on the landlord's right to enter the rental unit.

The landlord attended and gave affirmed testimony. Despite scheduling of the hearing in response to applications by both parties, the tenant did not appear. The landlord confirmed that he received the tenant's application for dispute resolution. The landlord testified that he served the tenant with his own application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail; the Canada Post website informs that the item was "unclaimed by recipient" and that it was later "successfully returned to the sender."

The landlord testified that as the tenant vacated the unit on May 31, 2014, he no longer seeks an order of possession.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from November 01, 2013 to April 30, 2014. The agreement provides that at the end of the fixed term "the tenancy ends and the tenant must move out of the residential unit." Despite this

provision, the landlord testified that the parties reached an agreement pursuant to which the tenant would be permitted to rent the unit for the month of May 2014.

Monthly rent of \$1,980.00 is due and payable in advance on the first day of each month, and a security deposit of \$990.00 was collected. The tenancy agreement provides that the tenant is responsible for paying 60% of the monthly hydro and gas utilities.

As a result of rent or utilities which remained unpaid for April and May 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated May 01, 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 May 11, 2014. No specific amount of utilities is shown on the notice as overdue. Subsequently, the tenant filed an application to dispute the notice on May 12, 2014. However, the tenant made no further payments and the landlord testified that he vacated the unit on May 31, 2014 without providing a forwarding address. The landlord filed an application for dispute resolution on May 16, 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 **\$3,530.00**:

\$1,500.00: *unpaid rent April 2014*

\$1,980.00: *unpaid rent May 2014*

\$50.00: *filing fee*

I order that the landlord retain the security deposit of **\$990.00**, and I grant the landlord a **monetary order** for the balance owed of **\$2,540.00** (\$3,530.00 - \$990.00).

In the absence of any supporting documentation (for example, utility invoices), the landlord's application for compensation reflecting the tenant's portion of unpaid utilities is hereby dismissed with leave to reapply.

Following from the tenant's failure to attend the hearing scheduled in response to applications by both parties, the tenant's application is hereby dismissed.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,540.00**. 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 02, 2014

Residential Tenancy Branch

