



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, OPR, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on May 27, 2014.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The documents are deemed received 5 days after mailing. The representative of the landlord testified she mail a copy of the Application for Dispute Resolution/Notice of Hearing by registered mail addressed to where the respondent at his residence on June 16, 2014. She further testified the respondent failed to pick up the package and it was returned to the landlord. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined there was sufficient service on the respondent. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to a monetary order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?

- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The landlord and the respondent and his wife originally entered into a tenancy agreement starting April 2010. The tenants paid a security deposit of \$500 on March 31, 2010 and a pet damage deposit of \$500 on April 15, 2010. The respondent subsequently vacated the rental unit and the landlord entered into a tenancy agreement with his wife only. The respondent returned to the rental unit and on October 18, 2013 the landlord entered into a written tenancy agreement with the respondent and his wife. The rent was \$1109. On February 18, 2014 the respondent's wife gave notice she was vacating the rental unit. The respondent continued to live in the rental unit.

The respondent failed to pay the rent for May (\$1109 is owed) and June (\$1109 is owed) and the sum of \$2218 remains outstanding. In early June the respondent orally advised the landlord he was thinking of leaving at the end of June. The tenant subsequently abandoned the rental unit. The landlord became aware the tenant had vacated the rental unit on June 25, 2014. The respondent has not given written notice.

The landlord testified they were not able to rent the rental unit for July 2014. She testified it took 20 hours of cleaning and 20 hours of garbage removal. The place was advertised in early July but they were not successful in finding a new renter. She testified the landlord suffered a loss of rent of \$1109 for July 2014.

Order for Possession

As the tenant has vacated the rental unit it is no longer necessary to consider the landlord's application for an Order for Possession. The respondent failed to pay the rent for May (\$1109 is owed) and June (\$1109 is owed) and the sum of \$2218 remains outstanding

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord has established a claim against the respondent for non-payment of rent for May (\$1109 is owed) and June (\$1109 is owed) and the sum of \$2218 remains outstanding
- b. I determined the landlord is entitled to \$1109 for loss of rent for July 2014. The tenant failed to give proper notice and failed to sufficiently clean the rental unit which prevented the landlord from renting the rental unit for July.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$3327 plus the \$50 filing fee for a total of \$3377.

Security Deposit

I determined the security deposit and pet damage deposit totals the sum of \$1000. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$2377.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: August 08, 2014

Residential Tenancy Branch

