



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenants' security deposit and to recover the filing fee.

The landlord's agent (hereafter "landlord") attended; the tenants did not attend the telephone conference call hearing.

The landlord provided the registered mail receipts showing the tracking numbers to prove that they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on April 25, 2014.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The landlord submitted that the tenants vacated the rental unit on or about May 5 or 6, 2014, and as a result, the landlord was no longer seeking an order of possession for the rental unit. I have excluded this request from further consideration.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation, authority to retain the tenants' security deposit and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on December 1, 2013, monthly rent was \$1160, and a security deposit of \$580 was paid by the tenants at the beginning of the tenancy.

The landlord testified that on April 4, 2014, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenants' door, listing unpaid rent of \$1190 as of April 1, 2014. The effective vacancy date listed on the Notice was April 17, 2014. It must be noted that \$30 of the listed unpaid rent included a parking fee.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenants did not make any further payments of rent prior to vacating in May and as of the date of the hearing, the tenants owed \$2400 in unpaid rent. In explanation, the landlord submitted that the tenants owed monthly rent of \$1160 for April and May, NSF charges of \$50, for two returned cheques, and \$30 in parking fees for April and May each.

I must note that the landlord failed to supply the 1st page of the 2 page Notice; however, I allowed the landlord to fax the first page directly to me after the hearing, with the understanding that the Notice had to correspond with the details as provided by the landlord at the hearing. The landlord did send in the 1st page, immediately after the hearing.

I must further note that the tenancy agreement supplied by the landlord in their original evidence did not contain a parking agreement signed by the tenants which required them to pay \$30 per month. Although not requested by me, the landlord also faxed the separate parking agreement signed by the tenant.

I have no evidence before me that the tenants applied to dispute the Notice.

Analysis

Based upon the landlord's undisputed evidence, I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay all the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service.

I further find that the landlord has proven that the tenants owed and failed to pay the rent for April in the amount of \$1160, due on April 1, and I approve their claim for that amount.

I also find that the tenants failed to vacate the rental unit by the end of April, staying until at least May 5, 2014, which caused the landlord to lose rent revenue for May and I therefore approve their claim for \$1160 for loss of rent revenue for that month.

As to the landlord's claim for parking, the landlord failed to submit proof that the tenants owed \$30 per month pursuant to a separate agreement, in their original evidence. Although the landlord did supply this document after the hearing, I neither requested it nor considered it, as it was not supplied in advance of the hearing as required by the Rules. I therefore deny their claim for \$60.

I find the landlord submitted sufficient evidence to show that they are entitled to \$50 for bank NSF fees, for two returned rent cheques.

I allow the landlord to recover the filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award of \$2420 comprised of unpaid rent of \$1160 for April 2014, loss of rent revenue for May 2014 in the amount of \$1160, \$50 for bank NSF fees, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord has been granted a monetary award in the amount of \$2420.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$580 in partial satisfaction of the monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1840, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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* and is being mailed to both the applicant and the respondents.

Dated: June 14, 2014

Residential Tenancy Branch

