



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPB; MNR; MND; MNDC; MNSD; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and damages; compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Notice of Hearing documents and copies of his first evidence package were mailed to the Tenant, via registered mail, to the rental unit on July 22, 2014. The Landlord provided a copy of the registered mail receipt and tracking numbers in evidence.

The Landlord testified that he served the Tenant with a second evidence package by handing the documents to the Tenant on September 1, 2014, at 2:30 p.m. at the Bay Centre.

Based on the Landlord's affirmed testimony and documentary evidence, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence. I am also satisfied that the Tenant was served with copies of the Landlord's documentary evidence.

Preliminary Matter

At the outset of the Hearing, the Landlord testified that the Tenant moved out of the rental unit on July 31, 2014, and that the Landlord has taken back possession of the rental unit. Therefore, the Landlord withdrew his request for an Order of Possession.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

The rental property is shared accommodation. The Tenant and the other three occupants had separate tenancy agreements with the Landlord, and each occupant was required to pay ¼ of the utilities. A copy of the tenancy agreement was provided in evidence. The tenancy commenced on February 1, 2014. Monthly rent was \$400.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$200.00 at the beginning of the tenancy.

The Landlord testified that the Tenant did not pay rent when it was due on June 1, 2014. The Tenant paid \$200.00 towards June rent and in "mid-July", 2014, he told the Landlord that he would not pay any more rent. The Landlord did not issue a Notice to End Tenancy for Unpaid Rent. The Tenant moved out at the end of July, 2014, with no notice, and the Landlord seeks compensation for loss of revenue for the month of August, 2014.

The Landlord stated that he re-rented the rental unit effective September 1, 2014.

The Landlord testified that the Tenant smoked pot in his room and did not clean the room before he moved out. The Landlord provided photographs of the Tenant's room, along with a copy of the Condition Inspection Report. The Landlord also provided a copy of an invoice dated August 16, 2014, for cleaning and repairs. The Landlord stated that the actual cost was more than he anticipated when he filed his Application, but that he is only seeking to recover the amount claimed on his application.

The Landlord also provided copies of utility invoices in evidence. The Landlord's Application for Dispute Resolution indicates that his claim for unpaid utilities is \$390.10; however, the invoices and the Landlord's calculations indicate that the Tenant owes \$487.91 (Tenant's share: \$79.73 + \$18.00 + \$133.73 + \$80.88 + \$114.42 + \$13.94 + \$47.13 = \$487.91).

The Landlord's Application for Dispute Resolution indicates a monetary claim, calculated as follows:

Unpaid rent for June, 2014	\$200.00
Unpaid rent for July, 2014	\$400.00
Loss of revenue for August, 2014	\$400.00
Unpaid utilities	\$390.10
Cleaning and repair costs	\$800.00
Late fees for June, July and August	<u>\$75.00</u>
TOTAL AMOUNT CLAIMED	\$2,465.10 (sic)
	(actual total is \$2,265.10)

Analysis

I accept that the Landlord's affirmed undisputed testimony in its entirety. I find that the Tenant did not pay rent in full for June, 2014, and did not pay rent at all for July, 2014. I further find that the Tenant did not comply with Section 44 of the Act because he did not provide the Landlord with due notice to end the tenancy. I find that the Landlord suffered a loss of revenue for the month of August, 2014, as a result of the Tenant's breach of the Act.

I find that the Landlord provided sufficient evidence to show that the Tenant's share of the utilities was 25%. The invoices provided include hand written calculations to support a claim of \$487.91; however, the Landlord did not amend his Application to include an additional claim for unpaid utilities. Therefore, I allow this portion of his claim in the amount claimed, \$390.10.

The invoice for cleaning and repairs indicates that the Landlord paid \$1,123.29 for replacement of cracked glass, cleaning, carpet cleaning and treatment/painting of the ceiling and walls to remove smoke odor. I find that the Landlord has established his claim in the amount of \$800.00 for this portion of his claim.

The addendum to the tenancy agreement contains a clause for late fees of \$25.00. The Act allows for an administrative fee for late payment of rent, up to \$25.00, if the tenancy agreement provides for such a fee. Therefore, I allow the Landlord's claim for late fees for June and July, 2014. I decline to award late fees for August, 2014 because the tenancy ended on July 31, 2014. The award of \$400.00 for August was for loss of revenue, which is not the same thing as late rent.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary award.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent for June and July, 2014	\$600.00
Late fees for June and July, 2014	\$50.00
Loss of revenue for August, 2014	\$400.00
Unpaid utilities	\$390.10
Cost of cleaning and repairs	\$800.00
Recovery of the filing fee	<u>\$50.00</u>

Subtotal	\$2,290.10
Less security deposit	- \$200.00
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$2,090.10

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of **\$2,090.10** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: October 17, 2014

Residential Tenancy Branch

