



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 matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said at the start of the conference call the Tenant abandoned the rental unit on or about September 2, 2014 and as a result of having possession of the unit the Landlord withdrew her request for an Order of Possession.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on July 31, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on December 6, 2012 as a 6 month fixed term tenancy and then continued on a month to month basis. Rent is \$825.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$412.50 on December 3, 2012.

The Landlord said that the Tenant did not pay \$825.00 of rent for July, 2014 when it was due and as a result, on July 2, 2014 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated July 2, 2014 on the door of the Tenant's rental unit. The Landlord said the Tenant has unpaid rent for August, 2014 in the amount of \$825.00

and for September, 2014 of \$522.50 as the Landlord said that she re-rent the unit on September 20, 2014.

Further the Landlord requested the late rent payment fee of \$20.00 for each month of July, August and September, 2014 and the parking fee of \$10.00 for July and August, 2014 and a prorated parking fee of \$6.33 for September, 2014.

The Landlord said her total claim is for \$2,258.83 plus the filing fee of \$50.00 for a total claim amount of \$2,308.83.

The Landlord further indicated that the Tenant is living at the rental unit and the Tenant has told the Landlord that she will be moving out, but the Landlord said the Tenant did not indicate when.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 45 of the Act says a Tenant may end a period term tenancy not earlier than at least one month prior to the date that rent is payable or with the agreement of the Landlord and it must be written notice.

The Tenant did not give the Landlord proper notice to end the tenancy and the Tenant does not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent for July and August, 2014 and the prorated rent until the 19th of September, 2014 in a total amount of \$2,172.50.

Further I find for the Landlord with regard to the parking fees and the late fees as both are part of the tenancy agreement. I award the Landlord \$26.33 in parking fees and \$60.00 in late rent payment fees.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 2,172.50
	Parking fees:	\$ 26.33
	Late Fees:	\$ 60.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$2,308.83
Less:	Security Deposit	\$ 412.50
	Subtotal:	\$ 412.50
	Balance Owing	\$ 1,896.33

Conclusion

A Monetary Order in the amount of \$1,896.33 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 01, 2014

Residential Tenancy Branch

