



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$1781.50, a request for recovery of the \$50.00 filing fee, and a request to retain the full security deposit towards the claim.

Issue(s) to be Decided

Has the landlord establish the right to an Order of Possession?

Has the landlord established a monetary claim against the tenants, and if so in what amount?

Background and Evidence

The landlord testified that:

- Rent for this unit is presently \$1500.00 per month.
- The tenants failed to pay the September 2014 rent, and therefore on September 5, 2014 one of the other property managers posted a Notice to End Tenancy on the tenants door.
- The tenants failed to comply with that notice, and failed to pay the full outstanding amount of rent within the required five-day timeframe.
- The tenants did eventually pay the September 2014 rent, and have subsequently also paid the October 2014 and November 2014 rent.

- They are therefore asking for an Order of Possession for as soon as possible, and for a Monetary Order as follows:

Rent outstanding from March 2014	\$101.50
Late fees	\$180.00
Filing fee	\$50.00
Total	\$331.50

The tenant testified that:

- Their rent has been paid late on numerous occasions; however the landlords always put the Notice to End Tenancy through the mail slot.
- The landlords did not post any Notice to End Tenancy on their door in the month of September 2014. There would be no need to post a notice, as my wife/co-tenant was home all throughout the month of September 2014.
- Further they contacted the landlord numerous times to come and get the rent and the landlord neglected to do so.
- As far as the claim for late fees and outstanding rent from the month of March 2014, all the late fees and this outstanding rent has been paid to the landlord in cash; however the landlord never gives receipts.
- Every time the landlord has requested a late fee, we have paid that fee.

In response to the tenant's testimony the landlord testified that:

- They do not give receipts to the tenants unless the tenant comes into the office to pay the rent and on numerous occasions the tenant requests that the landlord go to their rental unit to collect the rent and it is usually paid in cash.
- We do not carry rent receipts with us, and therefore it is not possible to give receipts to the tenants when we go to collect the rent.

Analysis

It is my finding that the landlord has not met the burden of proving that a Notice to End Tenancy was posted on the tenant's door. The landlord claims that one of the other property managers posted the notice; however there has been no evidence provided by that other property

manager. Therefore since the tenants deny ever finding a Notice to End Tenancy on their door I am not willing to accept the hearsay evidence that it had been posted.

Further the landlord has testified that the tenants have subsequently paid the October 2014 and November 2014 rent, and therefore even if a Notice to End Tenancy had been served in September 2014, the landlord reinstated the tenancy by collecting October 2014 and November 2014 rent.

It is also my finding that the landlord has not met the burden of proving that there is any rent or late fees outstanding at this time. Section 26(2) of the Residential Tenancy Act states:

26 (2) A landlord must provide a tenant with a receipt for rent paid in cash.

In this case the landlord has testified that the tenants usually paid the rent in cash, but a receipt is not given. Therefore it is my decision that since the landlord has failed to give receipts for cash received, I am not willing to accept the accuracy of their rental payment ledger.

I therefore will not be issuing any Order of Possession or any Monetary Order, nor will I allow the request for recovery of the filing fee.

Conclusion

The landlord's application is dismissed in full without leave to reapply.

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: November 04, 2014

Residential Tenancy Branch

