



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FRASERSIDE COMMUNITY SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The female Agent for the Landlord stated that on November 03, 2014 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail, at the rental unit. The Landlord submitted a Canada Post receipt that corroborates this statement. During the hearing the Agent for the Landlord searched the Canada Post website and confirmed the date of service by searching the Canada Post tracking number. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

On November 18, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were served to the Tenant by regular mail on November 17, 2014. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 88 of the *Act*, and they were accepted as evidence for these proceedings.

Preliminary Matter

At the hearing the Landlord applied to amend the Application for Dispute Resolution to reflect the correct spelling of the Tenant's name, which the Landlord contends was inadvertently misspelled on the Application for Dispute Resolution. The male Landlord stated that the Notice to End Tenancy reflects the correct spelling of the name.

Given that the spelling of the Tenant's name on the Application for Dispute Resolution is remarkably similar to the correct spelling and the Application for Dispute Resolution reflects the proper address of the Tenant, I find that the Tenant knew, or should have known, that he is the Respondent in this matter. I therefore find it reasonable to amend the Application for Dispute Resolution to reflect the correct spelling of his name.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent, to a monetary Order for unpaid rent/lost revenue, and to keep all or part of the security deposit?

Background and Evidence

The female Agent for the Landlord stated that this tenancy began on May 15, 2013; that the Tenant was required to pay monthly rent of \$375.00 by the first day of each month; and that the Tenant paid a security deposit of \$187.50.

The female Agent for the Landlord stated that rent was not paid for September, November, or December of 2014, but that it was paid for October. The female Agent for the Landlord stated that the Tenant did not pay rent for August until September 30, 2014. She stated that a cheque for rent was received on September 16, 2014, however the cheque was dated September 30, 2014. She stated this receipt was applied to rent for August.

The Landlord submitted a Statement of Rent Receipts indicates that rent was not paid for September or November of 2014. The statement indicates \$375.00 was received on September 30, 2014 and was applied to rent for October. The statement indicates \$375.00 was received on July 30, 2014 and was applied to rent for August.

The male Agent for the Landlord stated that on, or about, August 22, 2014 he posted a Ten Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit, which had an effective date of September 04, 2014. The Notice declared that the Tenant owed \$375.00 in rent that was due on August 01, 2014.

The female Agent for the Landlord stated that another Ten Day Notice to End Tenancy was served to the Tenant in October, however that Notice to End Tenancy was not submitted as evidence for these proceedings.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$375.00 by the first day of each month.

On the basis of the Statement of Rent Receipts submitted in evidence, I find that rent for August was paid, in full, on July 30, 2014. I find this documentary evidence to be more

reliable than the testimony of the female Agent for the Landlord, as the document appears to have been created by a CPA and appears to be a record of payments.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days, by providing proper written notice. As I have determined that rent was paid for August of 2014, I find that The Landlord did not have the right to serve the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent in August of 2014. I therefore dismiss the application for an Order of Possession.

On the basis of the testimony of the female Agent for the Landlord and the Statement of Rent Receipts, I find that rent was not paid for September, November, or December of 2014. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$1,125.00 in outstanding rent to the Landlord.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,175.00, which is comprised of \$1,125.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$187.50, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$987.50. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: December 09, 2014

Residential Tenancy Branch

