



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 33 DEVELOPMENT WORLD CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by personal delivery mail on December 11, 2014. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants’ absence.

The Landlord said the Tenant moved out on December 19, 2014, therefore the Landlord does not require an Order of Possession.

Issues(s) to be Decided

1. Are there rent and utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?

Background and Evidence

This tenancy started on September 1, 2014 as a fixed term tenancy with an expiry date of September 1, 2015. Rent was \$1,200.00 and a \$150.00 charge for utilities payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$600.00 on August 15, 2014.

The Landlord said that the Tenant did not pay \$1,350.00 of rent and utilities for the month of November, 2014, when it was due and as a result, on November 23, 2014 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated November 23, 2014. As well the Landlord said the Tenants have unpaid rent and utilities for December, 2014 in the amount of \$1,350.00. The Landlord continued to say The Tenants moved out December 19, 2014 and he has rented the unit to new tenants as of January 1, 2015.

The Landlord said he is claiming for unpaid rent and utilities for November and December, 2014 in the amount of \$2,700.00 and for the filing fee of \$50.00. The Landlord requested the security deposit of \$600.00 be applied to the unpaid rent.

Further the Landlord said he has an additional claim for cleaning and the removal of abandoned items the Tenants left in the unit. The Landlord submitted an email dated December 19, 2014, from the Tenants agreeing with the Landlord that he could dispose of the items left in the unit. . The Landlord said he will make a new application for these claims as he did not include them in this application when it was filed.

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.

The Tenants do not have the right under the Act to withhold part or all of the rent and utilities for November, 2014 and December 2014, therefore I find in favour of the Landlord for the unpaid rent and utilities in the amount of \$2,700.00 for November and December, 2014.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants 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 Tenants' security deposit in partial payment of the rent and utility arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears: (\$1,200.000 X 2)	\$2,400.00
	Utility arrears (\$150.00 X 2)	\$ 300.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$2,750.00
Less:	Security Deposit	\$ 600.00
	Subtotal:	\$ 600.00
	Balance Owing	\$ 2,150.00

Conclusion

A Monetary Order in the amount of \$2,150.00 has been issued to the Landlord. A copy of the Order must be served on the Tenants: 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: January 12, 2015

Residential Tenancy Branch

