



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Colliers MaCaulay Nicolls Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNR, OPR, MNR, MNSD, MND, MNDC, FF

Introduction

This matter dealt with an application by the tenant for an Order cancelling a Notice to End the Tenancy dated April 7, 2015. The landlord made a cross application for an Order for Possession and for 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. Only the landlord's agent attended. At the outset the landlord's agent IF advised that the tenant had moved out on May 4, 2015 and therefore the landlord was only requesting an monetary Order.

Issues(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent and loss of revenue and if so, how much?

Background and Evidence

The landlord's agent IF testified that the two attempts were made to serve the tenant with copies of this application by registered mail and the evidence on April 21, 2015 to the unit address and May 25, 2015 to the address provided by the tenant on the move out inspection. On both occasions the tenant did not claim the packages. I therefore find that the tenant was deemed to have received the documents by April 26, 2015 and therefore that the tenant has been sufficiently served in accordance with the Act.

Based upon the evidence of IF I find that this month-to-month tenancy started on September 16, 2016 and ended on May 4, 2015 when the tenant moved out. Rent was \$ 1,025.00 per month payable in advance on the 1st day of each month. The tenant paid a security deposit of \$ 512.50 at the beginning of the tenancy. IF testified that the arrears from April to May 2015 were \$ 2,050.00 and that the landlord was claiming for loss of revenue for one half of June amounting to \$ 512.50. Additionally the landlord was claiming an NSF charge of \$ 25.00 for the month of April.

Analysis

As the tenant failed to attend the hearing I have dismissed all of his claims.

I find based upon the evidence of the landlord and in absence of any evidence from the tenant that the landlord has proven a claim totalling \$ 2,587.50. As the landlord has been successful in this matter, I find pursuant to s. 72 of the Act that they are also entitled to recover the \$50.00 filing fee for this proceeding. I order the landlord pursuant to s. 38(4) of the Act to retain the tenant's security deposit inclusive of interest amounting to \$ 512.50 in partial payment of the rent arrears. The landlord will receive a Monetary Order for the balance owing.

Calculation of Monetary Award

Rental Arrears (April and May 2015)	\$ 2,050.00
Loss of revenue (1/2 June)	\$ 512.50
NSF fee	\$ 25.00
Filing Fees for the cost of this application	\$ 50.00
Less Security Deposit and interest	-\$ 512.50
Total Monetary Award	\$ 2,125.00

Conclusion

In summary I ordered that the respondent pay to the applicant the sum of \$ 2,587.50 in respect of this claim plus the sum of \$ 50.00 in respect of the filing fee for a total of \$ 2,637.50. I order that the landlord retain the security deposit amounting to \$ 512.50 inclusive of interest. I grant the landlord a Monetary Order in the amount of **\$ 2,125.00** and a copy of it must be served on the tenant. If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court. I have dismissed all of the tenant's claims. I have dismissed the landlord's claim for an Order for Possession. The landlord has leave to reapply for any other loss of revenue or claims for damage to the unit.

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: June 02, 2015

Residential Tenancy Branch

