



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0762039 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a monetary claim to retain the security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery to adult living in the rental unit on May 30, 2015. 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.

The Landlord said the Tenant moved out at the end of May, 2015, therefore the Landlord is withdrawing the application for an Order of Possession as she has possession of the rental unit.

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 November 1, 2013 as a month to month tenancy. Rent was \$800.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$400.00 on November 1, 2014. The Landlord said the original Tenant moved out of the rental unit in April, 2015 and the occupant (the Tenant's son) continued to live in the unit until the end of May, 2015. The Tenant's son paid rent for the first ½ of May, 2015 but did not pay rent for the last ½ of May, 2015. The Landlord requested to retain the Tenant's security deposit of \$400.00 for the unpaid rent for the last ½ of May, 2015.

The Landlord also requested to recover the \$50.00 filing fee for this proceeding.

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 periodic tenancy not earlier than at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenant and occupant did not give the Landlord proper notice to end the tenancy and the Tenant and occupant do 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 of \$400.00 for the last ½ of May, 2015.

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 payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 400.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$ 450.00
Less:	Security Deposit	\$ 400.00
	Subtotal:	\$ 400.00
	Balance Owing	\$ 50.00

Conclusion

A Monetary Order in the amount of \$50.00 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: July 14, 2015

Residential Tenancy Branch

