



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, OLC, ERP, RP, MNDC, MNSD, FF

Introduction

This was a cross-application hearing.

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent and damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The tenant applied to cancel a Notice ending tenancy for unpaid rent, compensation for damage or loss in the sum of \$600.00, an Order the landlord comply with the Act and make emergency repairs and repairs.

The landlord provided affirmed testimony that on June 17, 2015 in the late afternoon the tenant was personally served copies of the Application for Dispute Resolution and Notice of Hearing. Service occurred with a witness present at the rental unit.

Therefore, I find that the landlords' hearing documents were served on June 17, 2015 in accordance with section 89 of the Act.

The tenant did not appear at the hearing.

The landlord confirmed receipt of the tenants' hearing documents.

Preliminary Matters

The landlord withdrew the claim related to damage to the rental unit. The landlord has leave to reapply within the legislated time limit.

The landlord does not require an Order of possession as the tenant vacated the unit on July 3, 2015.

Issue(s) to be Decided

Is the landlord entitled to compensation for unpaid June 2015 rent, loss of July 2015 rent revenue and utility costs?

May the landlord retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The landlord did not make any written submission; all evidence was provided orally. The total claim made was \$2,403.00. A detailed calculation of the claim was not submitted but the application set out the details as far as a claim for rent and utilities that were not paid.

The parties signed a tenancy agreement. The tenancy commenced on February 1, 2015. Rent was \$1,100.00 per month, due on the first day of each month. A security deposit in the sum of \$550.00 was paid.

The tenancy agreement required the tenant to pay one half of hydro and natural gas costs. When the bills were received by the landlord copies were immediately given to the tenant.

The tenant did not pay June 2015 rent and did not vacate until July 3, 2015. The landlord has claimed the cost of unpaid rent in the sum of \$1,100.00.

The tenant over-held for three days into July 2015 and did not pay per diem rent for those days.

The landlord referenced a hydro bill issued on April 22, 2015 for service from February 18 to March 3, 2015 in the sum of \$330.19. The tenant did not pay her share of this bill.

The landlord referenced a natural gas bill issued on April 17, 2015 for the month of March 17, to April 17, 2015 in the sum of \$42.42. The tenant did not pay her share.

Two other bills remain unpaid but the landlord did not have the information available.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act and proof that the party took all reasonable measures to mitigate their loss.

From the evidence before me, in the absence of the tenant who was served with notice of the landlords' hearing, I find, pursuant to section 67 of the Act, that the tenant failed to pay June 2015 rent in the sum of \$1,100.00 that the landlord is entitled to compensation in that sum.

As the tenant over-held and did not vacate the rental unit until July 3, 2015 I find, pursuant to section 67 of the Act, that the landlord is entitled to per diem rent in the sum of \$36.16 per day, totaling \$108.48.

I find, pursuant to section 44(1)(d) of the Act that the tenancy ended on July 3, 2015; the date the tenant vacated.

The tenancy agreement required the tenant to pay one half of the gas and hydro costs. I find that the tenant was given copies of the bills and that that she failed to pay her

share of the bills. Therefore, I find the landlord is entitled to compensation in the sum of \$165.10 for hydro owed from February 198 to March 3, 2015.

As the tenant failed to pay the natural gas bill from March to April 2015 I find that the landlord is entitled to compensation in the sum of \$21.21.

As the landlords' application has merit I find that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's \$550.00 security deposit, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$849.79. 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.

Conclusion

The landlord is entitled compensation for unpaid June and July 2015 rent as set out above.

The landlord is entitled to compensation for unpaid utility bills.

The landlord is entitled to retain the security deposit.

The landlord is entitled to filing fee costs.

The landlord has leave to reapply in relation to damage to the rental unit.

This decision is final and binding and 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 23, 2015

Residential Tenancy Branch

