



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYLINE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord: OPR MNR MNSD MNDC FF
For the tenant: CNR MNDC

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The landlord applied for an order of possession for unpaid rent or utilities, for a monetary order unpaid rent or utilities, for authorization to keep all or part of the tenant's security deposit, for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated August 14, 2015, and for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement in the amount of \$600 as the tenant alleges that she “could not move into the until 16th of July due to landlord not complying with hydro.”

An agent for the landlord (the “agent”) attended the teleconference hearing. The tenant did not attend the hearing. As the tenant did not attend the hearing to present the merits of her application, the tenant's application was **dismissed in full, without leave to reapply**, after the ten minute waiting period had elapsed. The hearing continued with consideration of the landlord's application.

The agent was given an opportunity to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present his relevant evidence orally and in documentary form prior to the hearing, and make submissions to me. The evidence relevant to the issues and findings in this matter are described in this Decision.

The agent testified that the tenant was served with the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), Application for Dispute Resolution (the “Application”) and documentary evidence by personal service on August 24, 2015, which was witnessed by his Assistant Manager, D.R. The agent stated that the tenant signed for the paperwork on August 24, 2015.

Given the above, I find that the tenant was sufficiently served under the *Act* with the Notice of Hearing, Application and documentary evidence on August 24, 2015.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on July 1, 2015 and is scheduled to revert to a month to month tenancy after June 30, 2016. Monthly rent in the amount of \$1,050 is due on the first day of each month. The tenant paid a security deposit of \$525 at the start of the tenancy, which the landlord continues to hold.

The landlord's monetary claim of \$1,050 is comprised of the unpaid rent for the month of September 2015. The agent stated that money received in October 2015 was put towards rent owing for August 2015 and that the money was for use and occupancy only, and that the tenancy was not reinstated.

The agent testified that a 10 Day Notice dated August 14, 2015 was posted to the tenant's door on August 14, 2015. The amount listed on the 10 Day Notice indicates that \$1,050 was owed as of August 1, 2015. Although the tenant's disputed the 10 Day Notice on August 20, 2015, the tenant's application was dismissed, without leave to reapply, as the tenant failed to attend this proceeding.

The agent made a verbal request for an order of possession during the hearing.

Analysis

Based on the undisputed testimony of the agent, and the documentary evidence before me, and on the balance of probabilities, I find the following.

Order of Possession - Section 55 of the *Act* requires that I must grant an order of possession once I have dismissed the tenant's application to dispute a notice to end tenancy, and the agent made a request for an order of possession. As the tenant failed to attend the hearing, and the tenant's application to cancel the 10 Day Notice dated August 14, 2015, was dismissed, **I grant** the landlord an order of possession pursuant to section 55 of the *Act* effective **two (2) days** after service on the tenant.

Monetary Order – I accept the undisputed testimony of the agent that the tenant has failed to pay rent of \$1,050 for September 2015. As a result, I find the landlord has met the burden of proof and are entitled to \$1,050 for unpaid rent for September 2015.

As the landlord's application had merit, I grant the landlord the recovery of the **\$50** filing fee. I find the landlord's total monetary claim established is **\$1,100**.

I ORDER the landlord to retain the tenant's full security deposit of \$525 in partial satisfaction of the landlord's monetary claim. **I grant** the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$575**.

Conclusion

The tenant's application was dismissed in full, without leave to reapply.

The landlord's application was successful. The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

The landlord has established a total monetary claim of \$1,100 and has been ordered to retain the tenant's full security deposit of \$525 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$575. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, 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: October 2, 2015

Residential Tenancy Branch

