Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR, MNR, MDSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:
   a. An Order for Possession for non-payment of rent
   b. A monetary order in the sum of $1450 for unpaid rent
   c. An order to retain the security deposit to be applied against the monetary order.
   d. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on September 2, 2015. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to claim their registered mail. I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the tenant resides on September 15, 2015 and that it was sufficiently served despite the fact the tenant failed to claim the package and it was returned to the landlord.

Issue(s) to be Decided

The issues to be decided are as follows:

   a. Whether the landlord is entitled to an Order for Possession?
   b. Whether the landlord is entitled to A Monetary Order and if so how much?
   c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
   d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into an oral tenancy agreement that provided that the tenancy would start on May 1, 2015. The rent is $900 per month payable in advance on the first day of each month. There was two tenants and each paid a security deposit of $225 at the start of the tenancy.

One of the tenants vacated the rental unit at the end of August and the landlord returned his portion of the security deposit leaving a balance of $225.

The tenant(s) failed to pay the rent for the months of September and October the sum of $900 remains owing. The tenant vacated the rental unit some time near the end of October. .

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenant has vacated the rental unit and the landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of September and October and the sum of $900 remains outstanding. I granted the landlord a monetary order in the sum of $900 plus the sum of $50 in respect of the filing fee for a total of $950.

Security Deposit:
I determined the security deposit plus interest totals the sum of $225. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of $725.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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*.

Conclusion:

In conclusion I ordered that the landlord shall retain the security deposit of $225. I further ordered that the tenant pay to the landlord the sum of $725.

Dated: November 17, 2015

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Residential Tenancy Branch