



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING ADVISORY ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord on November 5, 2015 for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), to keep the remaining part of the Tenant’s security deposit, and to recover the filing fee from the Tenant.

An agent for the Landlord appeared for the hearing and provided affirmed testimony as well as documentary evidence prior to the hearing. However, there was no appearance by the Tenant during the seven minute duration of the hearing and no submission of written evidence prior to the hearing. As a result, I turned my mind to the service of the Notice of Hearing documents by the Landlord to the Tenant.

The Landlord’s agent testified that the Tenant was served with a copy of the Application and the Notice of Hearing documents by registered mail on November 9, 2015. The Landlord’s agent provided the Canada Post Tracking number into oral evidence which is documented on the front page of this decision. The Canada Post website shows that the Tenant received and signed for the documents on November 14, 2015. Based on the undisputed evidence of the Landlord’s agent, I find the Tenant was served the required documents for this hearing pursuant to Section 89(1) (c) of the Act. The hearing continued in the absence of the Tenant with the undisputed evidence of the Landlord.

Issue(s) to be Decided

- Is the Landlord entitled to costs associated with evicting the Tenant from the rental unit?
- Is the Landlord entitled to keep the remainder of the Tenant’s security deposit in partial satisfaction of the Landlord’s monetary claim?

Background and Evidence

The Landlord's agent testified that this tenancy started on April 1, 2013 on a month to month basis. A written tenancy agreement was signed and rent was payable by the Tenant in the amount of \$940.00 on the first day of each month. The Tenant paid a \$470.00 security deposit on March 8, 2013.

The Landlord explained that during a previous hearing which was held on September 5, 2014, the Landlord was successful in obtaining an Order of Possession to end the tenancy. The Landlord was also successful in the monetary claim made in that same hearing for unpaid rent. Accordingly, that Arbitrator allowed the Landlord to deduct the unpaid rent amount of \$427.00 from the Tenant's security deposit. The file numbers for the September 5, 2014 hearing are documented on the front page of this Decision.

The Landlord testified that the Tenant failed to vacate the rental unit pursuant to the Order of Possession that was served to the Tenant. Therefore the Landlord had to enforce the order in the BC Supreme Court. The Landlord paid \$120.00 to file the Order of Possession and obtain the Writ of Possession and \$3,613.54 to execute the Writ of Possession. As a result, the Landlord seeks to recover these costs from the Tenant.

The Landlord explained that pursuant to the decision made on September 5, 2014, the Landlord was allowed to keep \$427.00 from the Tenant's \$470.00 security deposit. As a result, the Landlord seeks to keep the remaining balance of the Tenant's security deposit of \$43.00 in partial satisfaction of the monetary claim to enforce the ending of the tenancy. The Landlord's agent confirmed that the Tenant had not provided any forwarding address after the tenancy had ended.

Analysis

I accept the undisputed evidence of the Landlord pertaining to the costs that were incurred to evict the Tenant through the enforcement of the Order of Possession that was granted to the Landlord on September 5, 2014. Therefore, the Landlord is awarded **\$3,733.54** claimed for these losses.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover the **\$50.00** filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable to the Landlord is **\$3,783.54**. I also allow the Landlord to keep the remaining amount of the Tenant's security deposit of **\$43.00** in partial satisfaction of the monetary claim awarded. Therefore, the remaining balance owed to the Landlord is \$3,740.54. This order must be served on the Tenant and may then be enforced in the

Small Claims Division of the Provincial Court as an order of that court if the Tenant fails to make payment. The Tenant is cautioned that the Landlord may also seek to recover costs from the Tenant for the enforcement of the Monetary Order.

Conclusion

The Tenant is liable for the costs the Landlord incurred to enforce the ending of the tenancy. Therefore, the Landlord may keep the remainder of the Tenant's security deposit in the amount of \$43.00 and is issued a Monetary Order for the remaining balance of \$3,740.54.

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: May 26, 2016

Residential Tenancy Branch