



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 480094 BC LTD dba Paradise Valley MHP
and [tenant name suppressed to protect privacy]

FINAL DECISION

Dispute Codes:

OPR, MNR

Introduction

On September 14, 2016 a decision was issued in response to the landlords' application for dispute resolution, requesting a monetary order for unpaid August 2016 rent and an order of possession. The decision was issued via Direct Request Proceeding, an ex parte process. The landlord was issued a monetary order in the sum of \$796.71 for August 2016 rent. The arbitrator found that the tenancy ended effective September 9, 2016 and an order of possession was issued. Rent was determined to be \$1,000.00 per month.

The tenant had applied to dispute the Notice ending tenancy but the tenants' application was not scheduled. On September 19, 2016 the tenant applied requesting review consideration of the decision issued on September 14, 2016.

On September 21, 2016 a review consideration decision was issued. The decision and orders issued on September 14, 2016 were suspended, pending the outcome of this review hearing. The arbitrator also ordered that the tenants' application for dispute resolution (see cover for file number) would be heard at this review hearing.

The tenant has applied to dispute the 10 day Notice ending tenancy for unpaid rent, an order for emergency repairs, an order suspending or limiting the landlords' right to enter the rental unit and return of the security deposit.

At the start of the review hearing the landlords' agents were present. The landlords each provided affirmed testimony that the tenant had served them with Notice of the review hearing; no other documents were given to the landlord.

Preliminary Matters

The landlord testified that the tenant remains in the rental unit. The landlord said the sum owed in August 2016 remains outstanding and no further rent has been paid by the tenant.

Section 4.2 of the Residential Tenancy Branch Rules of Procedure provides:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

As rent is the most basic term of a tenancy I find it could be reasonably anticipated that the landlords' application would be amended to include a claim for rent owed to the date of the hearing. Therefore, I find that the application is amended to include a claim for rent owed to the date of the hearing; October 19, 2016.

Analysis

As the tenant did not attend the hearing in support of her application for dispute resolution, ten minutes after the hearing commenced the tenants' application was dismissed and the hearing ended.

The tenant did not attend the hearing to oppose the landlords' application. The landlord was not required to serve the tenant with notice of the review hearing as this hearing was based on the tenants' application for review consideration.

As the tenant has not paid rent I find, pursuant to section 82(3) of the Act that the decision issued on September 14, 2016 which provided the landlord with compensation in the sum of \$796.71 for August 2016 rent is confirmed.

I find that in addition to rent owed for August 2016 that the landlord is entitled to compensation for unpaid rent from September 1, 2016 to September 9, 2016, the end date of the tenancy and unpaid per diem occupation rent from September 10 to October 19, 2016, inclusive, in the sum of \$1,624.53.

As the landlord has paid a \$100.00 filing fee I find, pursuant to section 72 of the Act, that the landlord is entitled to recover the filing fee cost from the tenant.

Therefore, pursuant to section 82(3) of the Act, I find that the monetary order issued on September 14, 2016 is varied to include total compensation to the landlord in the sum of \$2,621.24 (August 2016 rent, September 1 to 9, 2016 unpaid rent, September 10 to October 19, 2016 per diem rent and the filing fee cost.)

Based on these determinations I grant the landlord a monetary order in the sum of \$2,621.24. 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.

In accordance with section 72(2)(b) of the Act if the landlord is holding a security deposit, the landlord is at liberty to deduct any security deposit from the sum owed. Any deduction of the value of a security deposit must be brought forward at the time of enforcement of the monetary order.

I find, pursuant to section 82(3) of the Act that the decision issued on September 14, 2016 which provided the landlord with an order of possession are confirmed.

Conclusion

The monetary order issued on September 14, 2016 is varied; a new order has been issued.

The order of possession issued on September 14, 2016 is confirmed.

The landlord is entitled to filing fee costs.

The landlord may deduct any deposit from the sum owed.

The tenants' application is dismissed.

This final decision should be read in conjunction with the decision issued on September 14, 2016 and the review consideration decision issued on September 19, 2016.

This review hearing 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 19, 2016

Residential Tenancy Branch