



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RANCHO MANAGEMENT SERVICES BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

On September 20, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; for money owed or compensation for damage or loss; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlords agent ("the Landlord") attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Tenant was served the Notice of Hearing by Canada Post Registered Mail on September 22, 2016. The Landlord provided the Registered Mail receipt number as confirmation of service. I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary and Procedural Matters

The Landlord testified that the Tenant moved out of the rental unit on November 2, 2016. The Landlord submitted that he does not require an order of possession for the rental unit.

The Landlord withdrew his claim to recover \$50.00 for an NSF charge.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to keep the security deposit towards unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on November 1, 2015, as a one year fixed term tenancy. Rent in the amount of \$950.00 is payable to the Landlord on the first of each month. The Tenant paid the Landlord a security deposit of \$475.00.

The Landlord testified that the Tenant did not pay any rent for the month of September 2016. The Landlord testified that the Tenant has also failed to pay the rent for October 2016 and November 2016. The Landlord requested to amend his Application to include unpaid rent for the months of October 2016 and November 2016.

The Landlord testified that on September 6, 2016, the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 6, 2016 ("the Notice"). The Landlord testified that the Tenant was served with the Notice by posting it to the Tenant's door.

The Notice states that the Tenant has failed to pay rent in the amount of \$950.00 which was due on September 1, 2016. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

There is no evidence before me that the Tenant made an application to dispute the Notice.

The Landlord seeks a monetary order for unpaid rent in the amount of \$2,850.00. The Landlord requests to keep the security deposit in the amount of \$475.00 in partial satisfaction of the claim.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has not paid the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Tenant owes the Landlord \$950.00 for September 2016, rent. I grant the Landlord's request to amend the Application to allow a claim for October 2016 rent and November 2016 rent. The Tenant knows that rent is required to be paid on the first day of each month and the Landlord has suffered a loss of rent. I find that the Tenant owes the Landlord \$1,900.00 rent for the months of October 2016 and November 2016.

I order that the Landlord can keep the security deposit in the amount of \$475.00 in partial satisfaction of the claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a monetary claim of \$2,950.00 comprised of unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit of \$475.00 towards the claim of \$2,950.00, I find that the Landlord is entitled to a monetary order in the amount of \$2,475.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay the rent and did not file to dispute the Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I order that the Landlord can keep the security deposit in the amount of \$475.00 in partial satisfaction of the Landlord's claim.

The Landlord is granted a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$2,475.00.

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: November 17, 2016

Residential Tenancy Branch