



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, MNR, OPN, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for unpaid rent, damage or loss under the Act, an order of possession, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on June 2, 2016 copies of the Application for Dispute Resolution and Notice of Hearing and evidence were sent to each tenant, to the address provided by the tenants when they vacated the rental unit. A Canada Post tracking number and receipt was provided as evidence of service to each tenant. The mail was returned, marked by Canada Post as unclaimed.

A refusal to claim registered mail does not allow a party to avoid service. Therefore, I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 of the Act.

Neither tenant attended the hearing.

Preliminary Matters

As the tenants have vacated the landlord does not require an order of possession.

The landlord has a claim for loss of rent revenue, not unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$2,800.00 equivalent to loss of two months' rent revenue?

Is the landlord entitled to compensation in the sum of \$7.00 for a NSF fee?

May the landlord retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The one year fixed term tenancy commenced on July 1, 2015. The tenancy was to continue as a month to month term. Rent was \$1,900.00 due on the first day of each month. The landlord is holding a security deposit in the sum of \$950.00. A copy of the signed tenancy agreement was supplied as evidence.

The tenants gave notice on April 19, 2016 and vacated the rental unit on May 1, 2016.

The tenancy agreement was signed by the previous landlord. The current landlord purchased the property and assumed the tenancy effective March 31, 2016.

A letter issued by the tenants provided in the landlords' evidence indicated that the landlord had told the tenants to vacate. The landlord said that no such discussion occurred.

The landlord has claimed the loss of two months' rent revenue, for May and June, 2016. The landlord took possession of the rental unit on July 1, 2016, for his own use.

The landlord had been issued post-dated cheques for rent payment. The tenants' had cancelled the cheques that were held by the bank. When the rent payment for May did not process the landlord was charged a \$7.00 fee by the bank.

Analysis

In the absence of evidence to the contrary, I find that the landlord is entitled to the sums claimed. The tenants were each served with notice of this hearing and refused to claim the registered mail. A failure to claim mail does not allow a party to avoid service.

As the tenants did not attend the hearing to oppose the claim I find that the landlord is entitled to compensation in the amount claimed for loss of rent revenue to the end of the fixed term tenancy and the bank fee claimed; totaling \$3,807.00.

As the landlord's application has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$950.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary order for the balance of \$2,957.00. In the event that the tenants do not comply with this order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord is entitled to compensation as claimed.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding 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: November 24, 2016

Residential Tenancy Branch