



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MND, MNSD, MNDC, FF, O

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution filed on November 8, 2016 wherein the Landlord sought an Order of Possession based on a Mutual Agreement to End a Tenancy, a Monetary Order for money owed or compensation for damage or loss under the *residential Tenancy Act*, the Regulation or the tenancy agreement and to recover the filing fee.

Only the Landlord called into the hearing which was held by telephone conference on December 21, 2016 at 1:30 p.m. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenant with the Notice of Hearing and their Application on November 8, 2016 by registered mail to the rental unit. A copy of the tracking number is provided on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline, "12. Service Provisions" provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Under the *Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of November 13, 2016 and I therefore proceeded in her absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

The Landlord testified that the Tenant vacated the rental unit on November 30, 2016 such that an Order of Possession was not required.

The Landlord also testified that at the time he made his application he was estimating the cost to repair the flooring and clean the rental unit. He confirmed that the amount of his loss was in excess of the \$1,200.00 claimed and as such he wished to pursue that claim once he had an opportunity to compile his documentation and evidence.

Accordingly, I dismiss the Landlord's claim for compensation for damage to the rental unit with leave to reapply.

Issues to be Decided

1. Is the Landlord entitled to a Monetary Order for unpaid rent?
2. Should the Landlord be permitted to retain the security deposit?
3. Should the Landlord recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the tenancy agreement which provided that this month to month tenancy began on September 17, 2016. Monthly rent was payable in the amount of \$1,600.00 on the 17th of the month. The Tenant paid a security deposit in the amount of \$800.00.

The parties entered into a Mutual Agreement to End a Tenancy signed on November 6, 2016 confirming the tenancy was to end on November 30, 2016 (a copy was provided in evidence).

The Landlord confirmed that the Tenant moved out November 30, 2016, but failed to pay her rent from November 17 to November 30, 2016. Accordingly, he sought the prorated amount of \$746.66 for the 14 days she failed to pay rent.

The Landlord also sought recovery of the \$100.00 filing fee.

Analysis

I find, based on the Landlord's undisputed testimony and evidence and on a balance of probabilities, as follows.

The tenancy agreement provided that the Tenant was to pay \$1,600.00 per month in rent. I accept the Landlord's evidence that the Tenant failed to pay rent from November 17 to November 30, 2016 such that the Tenant is obligated to pay the sum of \$746.66. The Landlord, having been substantially successful, is entitled to recovery of the \$100.00 filing fee.

Conclusion

The Landlord is entitled to monetary compensation in the amount of \$846.66, including \$746.66 for unpaid rent from November 17 to November 30, 2016 and recovery of the \$100.00 filing fee. The Landlord may retain the Tenant's security deposit of \$800.00 and is granted a Monetary Order for **\$46.66** the balance. This Monetary Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division) as an Order of that court.

The Landlord's claim for compensation for damage to the rental unit is dismissed with leave to reapply.

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: December 21, 2016

Residential Tenancy Branch