



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNRL-S, FF: OPU, CNR, OLC

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. At the hearing the Landlord stated that the rental unit has been vacated and he no longer requires an Order of Possession.

The Landlord stated that on November 23, 2017 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted with the Application for Dispute Resolution were sent to the Tenant, via registered mail, at the service address noted on the Application. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to cancel a Notice to End Tenancy for Unpaid Rent or Utilities and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement.

Preliminary Matter

The hearing was to begin at 10:30 a.m. on this date and by the time the teleconference was terminated at 10:37 a.m. the Tenant had not appeared.

I find that the Tenant failed to diligently pursue his Application and I therefore dismiss the Application, without leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent or utilities?
Should the security deposit be retained by the Landlord?

Background and Evidence

The Landlord stated that:

- The Tenant agreed to pay monthly rent of \$900.00 by the first day of each month;
- \$150.00 is still due from March of 2017;
- \$150.00 is still due from April of 2017;
- \$150.00 is still due from May of 2017;
- \$150.00 is still due from June of 2017;
- \$50.00 is still due from July of 2017;
- \$900.00 is still due from October of 2017; and
- \$900.00 is still due from November of 2017.
- on October 03, 2017 he served the Tenant with a Ten Day Notice to End Tenancy, which declared that the rental unit must be vacated by October 13, 2017;
- the rental unit was vacated sometime during the first week of December of 2017; and
- no rent was paid for December of 2017.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$900.00 and that the Tenant still owes \$2,450.00 in rent for the period between March 01, 2017 and November 30, 2017. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$2,450.00 in outstanding rent to the Landlord.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that the Ten Day Notice to End Tenancy, served pursuant to section 46

of the *Act*, was posted at the rental unit on October 03, 2017. This Notice declared that the rental unit must be vacated by October 13, 2017.

The Tenant disputed the Notice to End Tenancy, thereby suspending the effect of the Notice. As the Tenant continued to occupy the rental unit after the effective date of the Notice and he continued to occupy the rental unit after December 01, 2017, I find that he was obligated to pay rent for December, in the amount of \$900.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$3,450.00, which includes \$3,350.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$450.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$3,000.00. 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 20, 2017

Residential Tenancy Branch