



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MND, MNSD, SS, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting compensation for unpaid rent, damage to the rental unit, to retain all or part of the security deposit, substitute service and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The female tenant provided affirmed testimony that she was not served with Notice of this hearing until August 20, 2011, when her co-tenant, J.M. gave her the Notice of hearing and evidence package.

The landlord testified that she had a statement signed by the male tenant on August 20, 2011, confirming he had been personally served the hearing package and evidence. The landlord confirmed that the portion of the application requesting substitute service was in relation to the female co-tenant. I requested a copy of the signed statement; it was submitted after the hearing and I found it supported the testimony that the male tenant had been served with Notice of the hearing on August 20, 2011; even though service did not occur within 3 days of the Notice of hearing issue date.

I determined, pursuant to section 71(2) of the Act that the female tenant had been sufficiently served with Notice of this hearing. Even though she was not given the documents within 3 days of the Notice of hearing having been issued; the tenant has acknowledged she did not intend to provide any written response and did receive the required Notice and evidence twelve days prior to the hearing.

The landlord's application included a claim for damages, with global amounts detailed. Within the evidence submission were a number of receipts and time sheets, in support of the claim for damages. The landlord did not supply an itemized list of the claim, which would allow the respondents to demine the details of each portion of the monetary claim. For example, the claim for cleaning costs was spread over 3 times sheets and did not appear to support the amount claimed on the application. Therefore, I determined, pursuant to section 59(5) of the Act, that the application did not disclose a dispute that could be determined; therefore I declined to hear the damages portion of the application.

The hearing proceeded in relation to unpaid rent, the security deposit and filing fee; I have amended the application to reflect a loss of rent revenue vs. unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to compensation for loss of May, 2011, rent revenue in the sum of \$800.00?

May the landlord retain the \$400.00 deposit in partial satisfaction of the claim?

Is the landlord entitled to filing fee costs?

Background and Evidence

This co-tenancy commenced in 2010; a 3 month fixed term agreement was then signed effective January 1, 2011. Rent was \$800.00 per month, due on the first day of the month. A deposit in the sum of \$400.00 was paid at the start of the tenancy. A copy of the agreement was supplied as evidence.

The female tenant gave her co-tenant a written notice that she asked he provide to the landlord before April 1, 2011. The male tenant did not give written notice until April 15, 2011; a copy of this notice was submitted as evidence. The female tenant had vacated prior to her co-tenant.

The landlord has claimed loss of May, 2011, rent in the sum of \$800.00. The unit was not rented until August 1, 2011.

The landlord has applied to retain the deposit in partial satisfaction of the claim.

Analysis

In the absence of evidence to the contrary, I find that the tenants failed to give notice as required by section 45 of the Act. The notice given in writing on April 15, 2011, was effective May 31, 2011.

I find that the tenancy ended on April 30, 2011, when the unit was vacated.

Therefore, I find that the landlord is entitled to compensation for the loss of May, 2011, rent in the sum of \$800.00.

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the 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 \$400.00 in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$850.00, which is comprised of loss of May, 2011, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit in the amount of \$400.00 in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$450.00. 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.

I declined to hear the balance of the landlord's claim.

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: August 31, 2011.

Residential Tenancy Branch