



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was scheduled in response to an application by the landlord for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent attended the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

During the hearing the landlord's agent testified that as the tenant has now vacated the unit, an order of possession is no longer required.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from June 1, 2012 to May 31, 2013. Monthly rent of \$1,145.00 is due and payable in advance on the first day of each month, and a security deposit of \$572.50 was collected. While a fee is also assessed for monthly parking in the amount of \$40.00, the tenancy agreement is silent on this fee.

Arising from rent and parking which remained unpaid when due on October 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 2, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Thereafter, the tenant made no further payment toward rent or parking and vacated the unit on October 29, 2012 without providing a forwarding address.

As there is no specific provision in the tenancy agreement that \$40.00 is payable each month for parking, the landlord's agent withdrew this particular aspect of the application for compensation.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated October 2, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. Subsequently, as earlier noted, the tenant vacated the unit on October 29, 2012 and did not provide a forwarding address.

As for the monetary claim, I find that the landlord has established an entitlement in the amount of \$1,195.00. This is comprised of \$1,145.00 in unpaid rent for October 2012, in addition to the \$50.00 filing fee.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

- (a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and
- (b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of \$572.50, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$622.50 (\$1,195.00 - \$572.50).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$622.50**. This order may be served on the tenant, filed in the 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 *Residential Tenancy Act*.

Dated: November 20, 2012.

Residential Tenancy Branch