



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Axis Asset Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and rent revenue, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on July 15, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the application. A Canada Post tracking number was provided as evidence of service.

These documents are deemed to have been served on the 5th day after mailing, in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Preliminary Matters

The tenant vacated the rental unit on July 29, 2014. The landlord withdrew the request for an Order of possession.

The tenancy agreement indicates the name of a previous agent for the landlord. In July 2014 the applicant was named as agent and has the authority to manage tenancies on behalf of the landlord.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and loss of revenue totalling \$1,950.00?

May the landlord retain the security deposit paid by the tenant?

Background and Evidence

The tenancy commenced on February 15, 2013; rent was \$650.00 due on the 1st day of each month. A security deposit in the sum of \$325.00 was paid. A copy of the tenancy agreement was supplied as evidence.

The landlord stated that on a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of July 14, 2014 was served by posting to the door on July 4, 2013.

The tenant did not pay July 2014 rent in the sum of \$650.00 and left the keys for the landlord on July 29, 2014. The landlord was able to rent the unit effective August 1, 2014 and is claiming loss of rent and revenue for July 2014 in the sum of \$650.00.

The landlord did not suffer a loss of revenue and withdrew the balance of the monetary claim.

Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the 3rd day after it is posted. Therefore, I find that the tenant received the Notice to end tenancy on July 7, 2014.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on July 7, 2014, I find that the earliest effective date of the Notice is July 17, 2014.

Section 53 of the Act stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was July 17, 2014.

Section 57(3) of the Act provides:

(3) A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended.

Therefore, as the tenant remained in the rental unit beyond the effective date of the Notice, I find that the landlord is entitled to compensation in the sum equivalent to \$650.00; for rent owed to July 17, 2014 and rent revenue for the balance of July.

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

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$375.00. 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.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent and rent revenue.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: September 16, 2014

Residential Tenancy Branch

