



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 615140 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, damage or loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend. The landlord and his assistant were given full opportunity to be heard, to present evidence and to make submissions. The landlord testified that the tenant had vacated the rental unit and he withdrew his application for an Order of Possession. The landlord testified that he had not been able to yet submit proof of his monetary losses claimed or serve the tenant with the evidence packages that followed his application. Based on these circumstances, the landlord withdrew his application for a monetary order for damage or loss as a result of the tenancy and to retain the tenant's security deposit. The landlord sought an order with respect to unpaid rent.

The landlord gave sworn testimony that he personally served the tenant with the Application for Dispute Resolution hearing package on April 1, 2015 while the tenant was moving out of the rental unit. I accept that the tenant was duly served with the landlord's Application for Dispute Resolution hearing package.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy began on April 1, 2014 on a month to month basis. The rental amount was \$1500.00 payable on the sixth of each month. The landlord testified that he continues to hold a \$750.00 security deposit paid by the tenant on March 9, 2014. The landlord testified that the tenant vacated the rental unit on April 1, 2015 providing approximately one week's verbal notice and leaving behind damage to the rental unit and rubbish to be removed from the premises. The landlord testified that the tenant provided no forwarding address and therefore, the landlord has been unable to serve the tenant with any subsequent evidence materials that he wanted to rely on at the hearing.

The landlord originally applied for an Order of Possession for unpaid rent for the month of March 2015. The landlord testified that the tenant did not pay rent of \$1500.00 due on March 6, 2015 and that he did not pay the outstanding rental amount after receiving a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified, through his assistant, that the tenant provided the landlord with a cheque each month for his rental amount. The landlord testified that, every month, the cheque was returned by the bank and the tenant would eventually provide him with a money order to pay the rent. In the month of March 2015, the tenant did not provide any form of payment. The landlord sought a monetary award of \$1500.00 for March 2015 for unpaid rent.

The landlord testified that he spent \$1100.00 on repairs and clean-up of the unit and was unable to re-rent it until May 1, 2015.

Analysis

Based on the undisputed, sworn testimony of the landlord and his assistant, I find the tenant failed to pay the March 2015 rent. The tenant did not attend this hearing, despite personal service of the notice of hearing. The tenant did not apply to dispute the landlord's claim that rent remains unpaid.

I find that the landlord is entitled to receive an order for unpaid rent in March 2015. I accept the uncontested evidence offered by the landlord and his assistant that the March rent remains unpaid and the tenant resided in the rental unit for the month of March. I also rely on the landlord's testimony that the tenant was personally served with notice of this hearing before he vacated the rental unit. I am issuing the attached monetary award that includes the landlord's application for \$1500.00 in unpaid rent for March 2015.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an arbitrator may order compensation to be paid. The party claiming the loss bears the burden of proof; must prove the existence of the loss; and that the other party was responsible for that loss. As well the claimant must provide evidence of the actual loss. The landlord testified that he had been unable to serve the tenant with the materials he had prepared and that he wished to submit further evidence. The landlord withdrew his application for a monetary award for loss or damage.

The landlord testified that he continues to hold a security deposit of \$750.00 plus any interest from March 9, 2014 to the date of this decision for this tenancy. There is no interest payable for this period. Pursuant to section 72(2)(b) of the *Act*, I will allow the landlord to retain the security deposit in partial satisfaction of the monetary award. And, as the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for March 2015	\$1500.00
Less Security Deposit	-750.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$800.00

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: May 12, 2015

Residential Tenancy Branch