



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

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

- a monetary order for unpaid rent, 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 this hearing, which lasted approximately 10 minutes. The landlord's agent, JS ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed that she is the property assistant for the landlord company named in this application and that she had authority to appear as its agent at this hearing.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") on January 13, 2015, by way of registered mail. The landlord provided a Canada Post receipt and tracking number as proof of service. The landlord also provided a printout from the Canada Post website with this tracking number, indicating that the tenant received and signed for the mail package on January 15, 2015. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's Application on January 18, 2015, the fifth day after its registered mailing.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent, dated December 8, 2014 ("10 Day Notice"), by way of regular mail on the same date. In accordance with sections 88 and 90 of the *Act*, I find that the tenant

was deemed served with the landlord's 10 Day Notice on December 13, 2014, five days after its mailing.

Issues to be Decided

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

Background and Evidence

The landlord testified that this month-to-month tenancy began on June 1, 2014 and ended on December 31, 2014. Monthly rent in the amount of \$900.00 was payable on the first day of each month. A security deposit of \$450.00 was paid by the tenant and the landlord continues to retain this deposit. The landlord provided a copy of the tenancy agreement with its Application.

The landlord issued the 10 Day Notice, indicating that rent in the amount of \$900.00 was due on December 1, 2014. The notice indicates an effective move-out date of December 23, 2014. The landlord confirmed that no rent payments have been made by the tenant since the 10 Day Notice was served.

The landlord seeks to recover December 2014 rent of \$900.00 from the tenant. The landlord also seeks to recover the \$50.00 filing fee for this Application from the tenant.

Analysis

Section 26 of the Act requires that rent be paid on the date indicated in the tenancy agreement, which is the first day of each month, in this case. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the *Residential Tenancy Regulation* or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act*, to do whatever is reasonable to minimize that loss.

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. The tenant was required to pay rent of \$900.00, an amount indicated on the 10 Day Notice, by December 1, 2014. The tenant did not pay this amount or make an

application pursuant to section 46(4) of the *Act*, within five days of being deemed to have received the 10 Day Notice. Therefore, I find that the landlord is entitled to \$900.00 in rental arrears for December 2014.

The landlord continues to hold the tenant's security deposit of \$450.00. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit of \$450.00 in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this Application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for the Application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$500.00 against the tenant as follows:

Item	Amount
Unpaid December 2014 Rent	\$900.00
Less Security Deposit	-450.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Award	\$500.00

The landlord is provided with a monetary order in the amount of \$500.00 in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: June 25, 2015

Residential Tenancy Branch