



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction, Preliminary and Procedural Matters-

The landlord's application was originally conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act ("Act"), via the documentary submissions only of the landlord, requesting an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent.

On June 1, 2015, an adjudicator of the Residential Tenancy Branch ("RTB") issued an Interim Decision on the landlord's application, which stated that the landlord had not supplied sufficient evidence to support the amount of unpaid rent listed on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice"), the basis of their application. In the Decision of June 1, 2015, the adjudicator ordered the direct request proceeding to be reconvened to a hearing before an Arbitrator in order to hear from the landlord as to make a determination of the issues had by the adjudicator, in order to make findings on the landlord's application for dispute resolution under the direct request process.

This was that participatory hearing and was attended by the landlord only; the tenant did not attend.

In the Interim Decision of June 1, 2015, the adjudicator ordered the landlord to serve the tenant with the notice of the reconvened hearing and all required documents within three days of the receiving the Decision in accordance with section 89 of the Act. At this participatory hearing, the landlord confirmed her evidence sent in on June 17, 2015, that she had served the tenant the notice of the dispute resolution hearing and all required documents by hand delivery on June 16, 2015. The delivery of the documents was witnessed by her son, verified by the signed document received on June 17, 2015.

I accept that the landlord served the tenant the notice of the hearing and required documents in a manner complying with section 89(1) of the Act and the Interim Decision and the hearing proceeded in the tenant's absence.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

As to the specifics contained in the written tenancy agreement and the Notice, that information is contained in the Interim Decision of June 1, 2015, and the Interim Decision is incorporated by reference herein.

The landlord submitted that the tenant vacated the rental unit on or about May 10, 2015, and therefore the landlord no longer required an order of possession for the rental unit.

As to the original claim of \$1650.00 for unpaid rent, the landlord submitted that she was no longer interested in seeking \$1100.00 for unpaid rent due for May 2015, as she no longer would rent the rental unit and therefore did not seek a new tenant.

The landlord submitted that her remaining claim is \$550.00 for rent from March 15-31, 2015, which was the agreement she had with the tenant. In explanation, although the written tenancy agreement shows that the tenancy commenced on April 1, 2015, the parties agreed that the tenant could move in early and would pay half a month's rent for that time period, or \$550.00. The landlord submitted further that although the tenant paid rent for April, and did not pay rent for May, the tenant vacated the rental unit without ever paying rent for March 15-31, 2015.

The landlord submitted that she was also seeking \$50.00 for recovery of her filing fee paid for this application.

Analysis

I find the landlord submitted sufficient evidence to prove that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice.

I find the landlord has now provided sufficient evidence to clarify and support the amount of unpaid rent listed on the Notice. I therefore find the landlord is entitled to a monetary award of \$550.00 for the unpaid rent, which was incorporated in the amount listed on the Notice, as the landlord reduced her claim to that amount at the hearing.

Under the direct request process, an applicant may apply only for an order of possession for the rental unit and a monetary order for unpaid rent and is not allowed recovery of the filing fee. As this hearing was based upon the landlord's application under the direct request process and therefore the request for that filing fee did not form a part of the landlord's application, I am unable to award her recovery of her filing fee.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$550.00, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord's application for a monetary order for unpaid rent has been granted at a reduced amount as per her request at the hearing.

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: July 23, 2015

Residential Tenancy Branch

