



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNSD, 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;
- 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;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his/her/their/its filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing by conference call and gave undisputed affirmed testimony. The tenant, K.L. (the tenant) confirmed receipt of the landlord's notice of hearing package and the submitted documentary evidence. The tenant confirmed that no documentary evidence was submitted for the hearing. Based upon the undisputed affirmed testimony of both parties, I find that both parties have been properly served with the notice of hearing package and the submitted documentary evidence as per section 88 and 89 of the Act.

At the outset the landlord clarified that at this time, he was only seeking to obtain an order of possession for unpaid rent and recovery of his filing fee. The remaining portions of the landlord's application were withdrawn.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for recovery of the filing fee?

Background and Evidence

This tenancy began on July 1, 2013 on a fixed term tenancy ending on June 30, 2014 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated June 14, 2013. The monthly rent is \$975.00 payable on the 1st day of each month and a security deposit of \$487.50 was paid on June 21, 2013.

Both parties confirmed that the landlord served the tenant with a 10 Day Notice dated August 10, 2015 which displays an effective end of tenancy date of August 20, 2015. The 10 Day Notice stated that the tenants failed to pay rent of \$487.50 that was due on July 31, 2015. During the hearing the landlord clarified that the rent was actually due on July 1, 2015, but that the tenants had come to an arrangement to pay the outstanding rent by July 31, 2015. The 10 Day Notice also stated that the tenants failed to pay utilities of \$340.29 following a written demand on July 1, 2015.

The tenant stated he was “not disputing” the 10 Day Notice, but clarified that he has tried to pay the rent when he could. The tenant stated that he partially paid the rent later, but was unable to pay the entire amount.

Analysis

Section 26 of the Act states a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

It is clear based upon the undisputed affirmed testimony of the tenant that the rent was not paid in full after having received the 10 Day Notice dated August 10, 2015 from the landlord. As the tenant has not disputed the claim filed by the landlord, I find that the landlord has established an entitled and is granted an order of possession for unpaid rent.

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 grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant a Monetary Order to the landlord for \$50.00 for recovery of the filing fee. 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 Orders 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: October 21, 2015

Residential Tenancy Branch

