



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by conference call in response to a Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent, and to recover the filing fee from the Tenant.

Preliminary Issues

The Landlord appeared for the hearing and provided affirmed testimony. There was no appearance for the Tenant during the 22 minute duration of the hearing or any submission of written evidence prior to the hearing. As a result, I turned my mind to the service of the documents for this hearing by the Landlord.

The Landlord testified the Tenant was served a copy of the Application and the Notice of Hearing documents personally on October 14, 2015. Based on the undisputed oral evidence of the Landlord, I find the Tenant was served the required documents pursuant to Section 89(1) (a) of the *Residential Tenancy Act* (the "Act").

The Landlord testified that she had provided a copy of the two notices to end tenancy prior to the hearing to the Residential Tenancy Branch. However, this was not before me and there was no record of this being received by the Residential Tenancy Branch. As the Tenant would have been served with a copy of the notices to end tenancy, I allowed the Landlord to fax me a copy of the notices to end tenancy during the hearing pursuant to the Rules of Procedure.

The Landlord also withdrew her request for an Order of Possession as she said that she had sold the property and the new owner wanted to start a new tenancy with the Tenant.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The Landlord testified that this was an oral tenancy with the Tenant on a month to month basis which started in August 2014. Rent was payable by the Tenant in the amount of \$600.00 on the first day of each month. The rent was being paid by a third party government agency on behalf of the Tenant. The Landlord testified that while she requested a security deposit from the Tenant at the start of the tenancy, none was paid.

The Landlord testified that when she was the Landlord owner of the rental unit (up until the end of October 2015), the Tenant failed to pay rent for August, September, and October 2015. As a result, she served the Tenant personally with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on August 8, 2015 and another one on October 12, 2015. Both notices to end tenancy were provided into evidence after the hearing had concluded.

The Landlord testified that while she is no longer the owner of the rental unit and the new owner took over the tenancy, she now seeks to recover the unpaid rent from the Tenant for the three months in the amount of \$1,800.00.

Analysis

I have carefully considered the undisputed affirmed testimony and the documentary evidence before me in this decision as follows. The Act defines a “tenancy agreement” as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit. Section 91 of the Act stipulates that except as modified or varied under this Act, the common law respecting landlords and tenants applies in British Columbia. Common law has established that oral contracts and/or agreements are enforceable. Therefore, based on the above, I find that the terms of this verbal tenancy agreement are recognized and enforceable under the Act.

I accept the Landlord’s undisputed testimony that she was the Landlord for this tenancy which started in August 2014 to October 2015 and rent was being paid by the Tenant via a third party government agency to the Landlord during this time.

Section 26(1) of the Act requires a tenant to pay rent when it is due under a tenancy agreement whether or not the landlord complies with the Act. Based on the Landlord's undisputed oral testimony and the notices to end tenancy, I accept the Tenant failed to pay the Landlord rent in the amount of \$1,800.00 for the months of August, September, and October 2015. Accordingly I award the Landlord **\$1,800.00** in unpaid rent.

As the Landlord has been successful in this claim, I also award the **\$50.00** Application filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenant to the Landlord is **\$1,850.00**.

The Landlord is issued with a Monetary Order for this amount. This order must be served on the Tenant and may then be enforced in the Provincial Court (Small Claims) as an order of that court if the Tenant fails to make payment. Copies of this order for service and enforcement are attached to the Landlord's copy of this decision.

Conclusion

The Tenant has breached the Act by failing to pay rent. Therefore, the Landlord is granted a Monetary Order for \$1,850.00.

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: December 11, 2015

Residential Tenancy Branch

