



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on October 13, 2015 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

The Landlord stated that on October 30, 2015 or October 31, 2015 the 13 pages of evidence submitted to the Residential Tenancy Branch on October 30, 2015 was personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent/utilities?

Background and Evidence

The Landlord stated that:

- this tenancy began on July 15, 2015;
- the Tenant agreed to pay rent of \$600.00 for July of 2015;
- the Tenant paid \$150.00 in rent for July;
- the Tenant agreed to pay a security deposit of \$600.00, which was not paid;
- the Tenant paid no rent for August, September, October, November, and December of 2015;
- a Ten Day Notice to End Tenancy for Unpaid Rent and Utilities, which had an effective date of October 12, 2015, was personally served to the Tenant on October 02, 2015;

- the Landlord thinks the Tenant may have vacated the rental unit on November 30, 2015, although there is still some personal property in the unit and the keys have not been returned;
- the Tenant agreed to pay 50% of the hydro costs for the rental unit;
- the Tenant has not paid her portion of the two hydro bills submitted in evidence;
- the Tenant agreed to pay 50% of the gas costs for the rental unit; and
- the Tenant has not paid her portion of the two gas bills submitted in evidence.

The Landlord submitted a copy of a tenancy agreement that corroborates this testimony.

At the hearing the Landlord applied to amend the application for a monetary Order to include all unpaid rent that has accrued since the Application for Dispute Resolution was filed on October 08, 2015.

The Landlord submitted one hydro bill for the period between June 17, 2015 and August 17, 2015 in the amount of \$193.43 and one hydro bill for the period between August 18, 2015 and September 22, 2015 in the amount of \$154.01. The Landlord is seeking to recover 50% of these bills.

The Landlord submitted one gas bill for the period between July 17, 2015 and August 19, 2015 in the amount of \$38.15 and one gas bill for the period between August 19, 2015 and September 17, 2015 in the amount of \$40.41. The Landlord is seeking to recover 50% of these bills.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay \$600.00 in rent for July of 2015 and that she only paid \$150.00 of this amount. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that she must pay \$450.00 to the Landlord for rent for July of 2015.

On the basis of the undisputed evidence, I find that the Tenant agreed to pay monthly rent of \$1,200.00 by the first day of each month, commencing on August 01, 2015, and that she did not pay any rent for August, September, and October of 2015. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that she must pay \$3,600.00 to the Landlord for rent for these months.

I find that the Tenant knew, or should have known, that the Landlord would be seeking all rent that is currently due, including rent that has accrued since the Application for Dispute Resolution was filed on October 08, 2015. I therefore grant the Landlord's application to amend the Application for Dispute Resolution to include unpaid rent from November and December of 2015.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice.

On the basis of the undisputed evidence, I find that a Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was personally served to the Tenant on October 02, 2015, which declared that the Tenant must vacate the rental unit by October 12, 2015.

Section 46 of the *Act* stipulates that a tenant has five days from the date of receiving a Ten Day Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on October 12, 2015. On this basis I grant the landlord an Order of Possession.

As the Tenant did not vacate the rental unit on October 12, 2015, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. As the Tenant has already been ordered to pay rent for the period between October 12, 2015 and October 31, 2105, I find that the Landlord has been fully compensated for that period.

I find that the Tenant must pay rent for November, in the amount of \$1,200.00, as the Tenant appears to have remained in possession of the rental unit for that month.

I find that the Tenant must pay rent for the nine days of December of 2015 she retained possession of the rental unit, at a daily rate of \$38.70, which equates to \$348.30. I decline to award compensation for the entire month of December as it is entirely possible that the Tenant will fully vacate the rental unit and return the keys today.

The Landlord retains the right to file another Application for Dispute Resolution seeking compensation for additional lost rent or loss of revenue if the Tenant does not fully vacate the unit today.

On the basis of the undisputed evidence, I find that the Tenant was required to pay 50% of the hydro charges incurred during the tenancy and that she did not pay her portion of the hydro bills submitted in evidence.

On the basis of the hydro bill submitted in evidence for the period between August 18, 2015 and September 22, 2015, in the amount of \$154.01, I find that the Tenant owes \$77.01 for hydro consumption during this period.

As this tenancy did not begin until July 15, 2015, I find that the Tenant is only required to pay her portion of 34 days of the 59 day billing period between June 17, 2015 and August 17, 2015. 34/59 of the bill for \$193.43 is \$111.47. I find that the Tenant is required to pay 50% of this bill, which is \$55.74.

On the basis of the undisputed evidence, I find that the Tenant was required to pay 50% of the gas charges incurred during the tenancy and that she did not pay her portion of the gas bills submitted in evidence.

On the basis of the two gas bills submitted in evidence for the period between July 17, 2015 and August 17, 2015, in the amount of \$78.56, I find that the Tenant owes \$39.28 for gas consumption during this period.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$5,520.33, which is comprised of \$5,598.30 in unpaid rent, \$132.75 in unpaid hydro charges, \$39.28 for gas charges, and \$50.00 in compensation for the fee paid to file this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for \$5,520.33. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: December 09, 2015

Residential Tenancy Branch

