



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, 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;
- 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agents (the landlord) attended the hearing by conference call and gave undisputed affirmed testimony. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on November 25, 2015. The landlord has provided a copy of the Canada Post Registered Mail Customer Receipt Tracking number and a print out of an online search tracking the delivery. The landlord stated that the package was unclaimed by the tenant and returned to the landlord by Canada Post.

The landlord testified that she served the tenant with the dispute resolution package and the submitted documentary evidence on November 25, 2015 by registered mail. The landlord provided me with a Canada Post customer receipt that showed the same. On the basis of this evidence, I am satisfied that the tenant is deemed served with the dispute resolution package pursuant to sections 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

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

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

This tenancy began on May 1, 2015 on a fixed term tenancy ending on April 30, 2016 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated April 18, 2015. The monthly rent is \$1,350.00 payable on the 1st day of each month and a security deposit of \$675.00 was paid on April 18, 2015.

The landlord seeks an order of possession and a monetary order for unpaid rent. The landlord's written details state:

\$1,350.00	Unpaid November 2015 Rent
\$45.00	Unpaid November 2015 Parking
\$25.00	November 2015 Late Rent Charge
\$2.19	Unpaid Hydro (May 2015)
\$5.00	Unpaid Parking (May 2015)

The landlord stated that the tenant was served with a 10 Day Notice to End Tenancy Issued for Unpaid Rent (the 10 Day Notice) dated November 9, 2015 by posting it to the rental unit door on November 9, 2015 with a witness. The landlord has submitted a copy of a proof of service statement as confirmation.

The 10 Day Notice stated that the tenant failed to pay rent of \$1,350.00 that was due on November 1, 2015. The 10 Day Notice displays an effective end of tenancy date of November 19, 2015.

During the hearing the landlord stated that it was discovered on December 10, 2015 that the tenant had vacated the rental unit. The landlord stated that notice was not given. The landlord withdrew the request for an order of possession as it is no longer required. As such no further action is required for the landlord's request for an order of possession.

The landlord now seeks \$1,350.00 for December 2015 Unpaid Rent, \$45.00 for December 2015 Parking and \$25.00 for a December 2015 late rent charge. The landlord clarified that a total monetary claim of \$2,840.00 is being sought from the tenant for unpaid rent (\$2,700.00), unpaid parking (\$95.00), late rent fees (\$50.00) and unpaid hydro (\$2.19).

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed evidence of the landlord. The landlord testified that she served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on November 9, 2015 by posting it to the rental unit door with a witness. The landlord provided me with a signed proof of service statement that showed the same. On the basis of this evidence, I am satisfied that the tenant was deemed served with the 10 Day Notice pursuant to sections 88 of the Act. The landlord also provided undisputed affirmed testimony that the tenant failed to pay rent for December 2015 or give proper notice to end the tenancy. The landlord also provided undisputed affirmed testimony that the tenant failed to pay the parking charges and an unpaid hydro bill from May 2015.

The landlord has established a total monetary claim of \$2,847.19.

The landlord testified that she continued to hold the tenant's \$675.00 security deposit. The landlord applied to keep the tenant's security deposit. I allow the landlord to retain the \$675.00 security deposit 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 this application.

Conclusion

The landlord withdrew her request for an order of possession. No further action is required.

I issue a monetary order in the landlord's favour in the amount of \$1,735.00 under the following terms:

Item	Amount
Unpaid November Rent	\$1,350.00
November Late Rent Fee	25.00
Unpaid December Rent	1,350.00
December Late Rent Fee	25.00
Unpaid November Parking	45.00

Unpaid December Parking	45.00
Unpaid May Parking	5.00
Unpaid May Hydro	2.19
Recovery of Filing Fee	50.00
Offset Security Deposit	-675.00
Total Monetary Order	\$2,215.19

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with these orders, these orders 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: January 20, 2016

Residential Tenancy Branch

