



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OPR, MNR, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the “Act”).

The Landlord filed an Application requesting: an order of possession due to unpaid rent; a monetary order due to unpaid rent, and to recover the cost of the filing fee for this hearing.

The Tenant filed an Application requesting to cancel a 10 day Notice To End Tenancy for Unpaid Rent dated May 5, 2016.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

At the start of the hearing it was established that the Tenant moved out of the rental unit on May 31, 2016. As the primary issue of whether or not the tenancy will continue is no longer in question, the Tenant withdrew her application to cancel the 10 Day Notice To End Tenancy for Unpaid Rent or Utilities dated May 5, 2016. The Landlord withdrew the request for an order of possession.

The Tenant explained that she plans to make another application for dispute resolution to deal with her claim for monetary compensation at a later date.

As the Tenant withdrew her application, the hearing continued with respect the remaining issues on the Landlord's application.

Issues to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Parties testified that the tenancy commenced on February 1, 2015, as a one year fixed term tenancy that continued thereafter as a month to month tenancy. Rent in the amount of \$895.00 was due on the first day of each month. The Tenant paid a security deposit of \$447.50 to the Landlord.

The Landlord testified that the Tenant did not pay the rent owed on May 1, 2016. The Landlord served the Tenant with 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the Notice") dated May 5, 2016, by posting the Notice to the Tenant's door on May 5, 2016. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice. The Notice states that the Tenant has failed to pay rent in the amount of \$895.00.

The Tenant testified that she did not pay any rent for the month of May 2016. She testified that she withheld the rent because of a bedbug problem. She testified that on April 28, 2016, she noticed that her body was covered in bug bites. She testified that she temporarily moved to stay with family for a couple of days and paid \$50.00 per night. The Tenant testified that she lost work because of the bed bug issue and could not afford to pay the rent.

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

Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenant did not pay any rent to the Landlord for

the month of May 2016. The Tenant did not provide sufficient evidence to prove that she had a right under the Act to withhold paying the rent.

I find that the Tenant owes the Landlord \$895.00 rent for the month of May 2016.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was successful in his claim, I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for the hearing.

I find that the Landlord has established a total monetary claim of \$995.00 comprised of \$895.00 in unpaid rent, and the \$100.00 fee paid by the Landlord for this hearing. I grant the Landlord a monetary order in the amount of \$995.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay the rent for May 2016, and did not have a right under the Act to withhold rent.

The Landlord is granted a monetary order for unpaid rent and recovery of the filing fee in the amount of \$995.00.

The Tenant is granted leave to reapply for monetary compensation for her claims for damage or loss under the Act, regulations, or tenancy agreement.

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: June 08, 2016

Residential Tenancy Branch