



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 8 minutes. The landlord's agent, SK ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the property portfolio manager for the landlord company named in this application and that she had authority to speak on its behalf at this hearing. The landlord had an employee observe the hearing for training purposes but that employee did not participate in this hearing.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on October 5, 2016, by way of registered mail to the rental unit where the tenant was still residing. The landlord provided a Canada Post receipt and tracking printout with this application, which shows that the tenant signed for receipt of the package on October 12, 2016. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on October 10, 2016, five days after its registered mailing.

At the outset of the hearing, the landlord confirmed that she did not require an order of possession as the tenant had already vacated the rental unit. Accordingly, this portion of the landlord's application is dismissed without leave to reapply.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on February 1, 2013 and ended on November 3, 2016. Monthly rent in the amount of \$715.00 was payable on the first day of each month. No security deposit was required for this rental unit. Two written tenancy agreements were signed by both parties and copies were provided for this hearing.

The landlord seeks a monetary order of \$3,323.97 for unpaid rent from December 2015 to October 2016. The landlord said that the tenant owed rental arrears of \$513.00 from December 2015 and \$715.00 from January 2016, totalling \$1,228.00. She stated that the parties entered into a repayment agreement on January 5, 2016, where the tenant would pay \$25.00 per month beginning on February 1, 2016, until the \$1,228.00 rental arrears were paid off. The landlord maintained that the tenant still owes a balance of \$1,078.00 from the above repayment agreement. The landlord explained that the tenant also owes rent of \$100.97 for July 2016 and \$715.00 for each month from August to October 2016, inclusive.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlord provided undisputed evidence that the tenant failed to pay rent of \$3,323.97 from December 2015 until October 2016. Accordingly, I find that the landlord is entitled to \$3,323.97 in unpaid rent from the tenant.

As the landlord was successful in this application, I find that she is entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlord's application for an order of possession is dismissed without leave to reapply.

I issue a monetary order in the landlord's favour in the amount of \$3,423.97 against the tenant. The tenant must be served with this Order as soon as possible. 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 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: November 24, 2016

Residential Tenancy Branch