



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession, pursuant to section 55 of the *Act* for unpaid rent or utilities; and
- a Monetary Order, pursuant to section 67 of the *Act* for unpaid rent.

While the landlord, represented by agent, DM ("the landlord"), attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") was posted on the door of the rental unit on December 12, 2016. I find that in accordance with sections 88 and 90 of the *Act* the 1 Month Notice was deemed to be served to the tenant on December 15, 2016.

The landlord testified that the tenant was sent the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") and evidentiary package by Registered Mail on January 18, 2017. In accordance with section 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's dispute resolution hearing and evidentiary packages on January 23, 2017.

At the outset of the hearing the landlord informed that the tenant had vacated the property on January 29, 2017 and that they wished to withdraw the Notice to End Tenancy. The landlord's application for an Order of Possession is hereby withdrawn.

Issue(s) to be Decided

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

Background and Evidence

The landlord gave evidence and provided a copy of the tenancy agreement that the tenancy in question began on October 1, 2008. Rent was set at \$1,445.00 per month, rising to \$1,541.00 by January 2017. A security deposit of \$568.00 continues to be held by the landlord.

The landlord has applied for an Order of Possession pursuant to section 55 of the *Act* and a Monetary Order for non-payment of rent for the months of December 2016 and January 2017 pursuant to section 67 of the *Act*. The landlord is seeking a Money Order of \$2,986.00 to recover monies owed from non-payment of rent for the following months.

Item	Amount
Unpaid rent for December 2016	\$1,445.00
Unpaid rent for January 2017	1,541.00
Total =	\$2,986.00

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The landlord provided testimony and written evidence which, was submitted with the hearing package demonstrating that rent was not paid for December 2016 and January 2017. In accordance with sections 7(1) and 67 of the *Act*, I find that the landlord is entitled to a monetary award of \$2,986.00 for unpaid rent owing for those months.

Although the landlord's application does not seek to retain the security deposit for this tenancy, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$568.00 security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

Conclusion

I am making a Monetary Order pursuant to section 67 of the Act for \$2,418.00 in favour of the landlord as follows:

Item	Amount
Rental Arrears for December 2016	\$1,445.00
Rental Arrears for January 2017	1,541.00
Less Security Deposit	(-\$568.00)
Total Monetary Award	\$2,418.00

The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

The landlord's application for an Order of Possession is withdrawn.

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: February 15, 2017

Residential Tenancy Branch