



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPL, MNR, MNDC, FF

Introduction

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

- an Order of Possession for unpaid rent and for landlords' use of property, pursuant to section 55;
- a monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, 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 10 minutes. The landlords' agent, SA ("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 had authority to speak on behalf of both landlords named in this application as an agent at this hearing. The landlords also provided a written authorization to this effect.

The landlord testified that the tenant was served with the landlords' application for dispute resolution hearing package and amendment to the application on March 8, 2017, by way of registered mail. The landlords provided a Canada Post receipt and tracking number with this application. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application and amendment on March 13, 2017, five days after its registered mailing.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlords' application to add an order of possession for unpaid rent, a monetary order for unpaid rent and a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement. The landlords filed an amendment, dated March 8, 2017, to their application regarding the above relief and served it to the tenant as noted above.

At the outset of the hearing, the landlord confirmed that the landlords did not require an order of possession as the tenant had already vacated the rental unit. Accordingly, this portion of the landlords' application is withdrawn.

Issues to be Decided

Are the landlords entitled to a monetary award for unpaid rent and for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Are the landlords entitled to recover the filing fee for this application?

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on June 1, 2016 and ended on March 20, 2017. Monthly rent in the amount of \$1,800.00 was payable on the first day of each month. A security deposit of \$900.00 was paid by the tenant and the landlords continue to retain this deposit. No written tenancy agreement was signed for this tenancy.

The landlords seek a monetary order of \$1,800.00 for unpaid March 2017 rent. The landlord testified that the landlords were no longer seeking January or February 2017 rent from the tenant. The landlord claimed that she was unsure whether the tenant paid January 2017 rent but that she was not seeking it from the tenant. The landlord claimed that the tenant was entitled to one month free rent for February 2017 under section 51 of the *Act* and pursuant to a 2 Month Notice to End Tenancy for Landlords' Use of Property, dated December 14, 2016 ("2 Month Notice"). The landlord confirmed that this notice was served to the tenant personally on December 14, 2016 and it stated an effective move-out date of February 15, 2017. The landlord stated that she was seeking the entire month of March 2017 rent even though the tenant vacated on March 20, 2017, because rent is due on the first day of each month and the tenant failed to pay it.

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 landlords for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on landlords claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlords provided undisputed evidence that the tenant failed to pay rent of \$1,800.00 for March 2017. I find that the rent is due on the first day of each month as per the parties' verbal tenancy agreement. Therefore, the rent was due on March 1, 2017 and the tenant failed to pay it. Accordingly, I find that the landlords are entitled to \$1,800.00 in unpaid rent from the tenant for March 2017.

The landlords continue to hold the tenant's security deposit of \$900.00. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenant's entire security deposit of \$900.00 in partial satisfaction of the monetary award.

As the landlords were successful in this application, I find that they are entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlords' application for an order of possession is withdrawn.

I order the landlords to retain the tenant's entire security deposit of \$900.00 in partial satisfaction of the monetary award.

I issue a monetary order in the landlords' favour in the amount of \$1,000.00 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: April 04, 2017

Residential Tenancy Branch