



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPRMNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for unpaid rent, a monetary Order for unpaid rent or utilities, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on March 12, 2017 the Application for Dispute Resolution and the Notice of Hearing was personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent or utilities?
Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord stated that:

- this tenancy began on December 01, 2016;
- the Tenant agreed to pay monthly rent of \$2,000.00 by the first day of each month;
- the Tenant paid a security deposit of \$1,000.00;
- the Tenant did not pay any rent for February or April of 2017;
- on March 19, 2017 the Tenant paid \$1,150.00 in rent for March of 2017;
- the Tenant has not been served with a Ten Day Notice to End Tenancy for Unpaid Rent;
- the Tenant was required to pay 60% of all the hydro and gas bills; and
- when this Application for Dispute Resolution was filed the Tenant owed \$1,200.00 in unpaid utilities.

Analysis

On the basis of the undisputed evidence I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$2,000.00 by the first day of each month and that the Tenant has only paid \$1,150.00 of the rent that was due for the period

between February 01, 2107 and April 31, 2017. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$4,850.00 in outstanding rent for the period between February 01, 2107 and April 31, 2017.

On the basis of the undisputed evidence I find that the Tenant agreed to pay 60% of all the hydro and gas bills. I find that the Landlord has submitted insufficient evidence to establish that the Tenant owed \$1,200.00 in unpaid utilities when this Application for Dispute Resolution. In reaching this conclusion I was heavily influenced by the fact the Landlord did not submit copies of the utility bills to support this claim. Whenever a landlord is seeking compensation for unpaid utilities, I find that a landlord must submit copies of the bills that have not been paid whenever it is reasonably possible. As the Landlord has not submitted copies of the unpaid utility bills, I dismiss his claim for unpaid utilities.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that the Landlord has not served the Tenant with a Ten Day Notice to End Tenancy. As the Landlord has not served the Tenant with a Notice to End Tenancy, I find that he does not yet have the right to end the tenancy pursuant to section 46 of the *Act*, and I dismiss his application for an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord is not entitled to an Order of Possession as the Landlord has not served the Tenant with a Ten Day Notice to End Tenancy.

The Landlord has established a monetary claim, in the amount of \$4,950.00, which includes \$4,850.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$800.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$4,150.00. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: April 11, 2017

Residential Tenancy Branch