



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 MNR, FF

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord requested a Monetary Order for unpaid rent and to recover the filing fee.

The hearing was conducted by teleconference on May 9, 2017. Only the Landlord's agent, Y.L. called into the hearing. She gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

Y.L. testified that she served the Tenant with the Notice of Hearing and the Application on November 8, 2016 by registered mail and stated that she was informed that the Tenant retrieved the package on November 15, 2016. I accept the Landlord's evidence and find the Tenant was duly served as of November 15, 2016 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord/Tenant's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation for unpaid rent?
2. Should the Landlord recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement which provided that this tenancy began January 19, 2016. The monthly market rent pursuant to the agreement was \$610.00; Y.L. confirmed that the unit is subsidized and as a result the Tenant paid \$511.00 in rent. A copy of the Declaration of Income and Assets was provided in evidence confirming this sum.

Y.L. testified that the Tenant failed to pay the March 2016 and April 2016 rent such that the sum of \$1,022.00 was owing.

Y.L. confirmed the Landlord also sought the filing fee of \$100.00.

Analysis

Based on the above, the Landlord's agent's undisputed testimony, evidence filed, and on a balance of probabilities, I find as follows:

I find that the Tenant was obligated to pay rent of \$511.00 per month, yet failed to do so. Under section 26 of the *Act*, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the *Act*, unless the Tenant has some authority under the *Act* to not pay rent. In this situation the Tenant had no authority under the *Act* to not pay rent.

I therefore find that the Landlord is entitled to the amounts claimed, including recovery of the filing fee for a total monetary claim of **\$1,122.00** comprised of \$1,022.00 in unpaid rent and the \$100.00 fee paid by the Landlord for this application.

Conclusion

I therefore grant the Landlord a Monetary Order under section 67 for sum of **\$1,122.00**.

This Order may be filed in the Provincial Court (Small Claims) 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: May 12, 2017

Residential Tenancy Branch