



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, dated November 7, 2016 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by S.K., an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

According to the Landlord, the Application package, including the Notice of a Dispute Resolution Hearing and the documentary evidence, was served on the Tenant by registered mail on November 8, 2016. According to S.K., the package was accepted and signed-for by the Tenant on December 2, 2016. I find the Tenant received the Landlord's Application package on December 2, 2016.

The Landlord's agent was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing, a difference was noted between the Tenant's Address and the Dispute Address. On behalf of the Landlord, S.K. confirmed the correct address was the one found in the Dispute Address field. Pursuant to section 64 of the *Act*, I amend the Landlord's Application to correct the typographical error.

In addition, S.K. testified that the Tenant vacated the rental unit on March 31, 2017, and that an order of possession is no longer required. This aspect of the Landlord's claim has not been considered further in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The Landlord submitted into evidence a copy of the tenancy agreement between the parties. It confirmed the tenancy began on March 1, 2012. On behalf of the Landlord, S.K. confirmed the tenancy ended when the Tenant vacated the rental unit on March 31, 2017. The tenancy agreement stipulated that rent was determined as a percentage of income. According to S.K. rent at the end of the tenancy was \$675.00 per month.

On behalf of the Landlord, S.K. testified that rent was not paid when due in March 2016. Although the Tenant was asked to sign a Repayment Agreement on or about September 30, 2016, she did not. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 12, 2016, which was served on the Tenant by regular mail. At that time, outstanding rent was \$575.00. However, the Tenant subsequently made partial rent payments totalling \$325.00, and only \$250.00 remains outstanding.

The Landlord also sought to recover the \$100.00 filing fee paid to make the Application.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. In this case, S.K. testified, and I find, that rent was not paid when due and that \$250.00 remains outstanding. The Tenant did not attend the hearing to dispute the amount claimed by the Landlord. I find the Landlord is entitled to a monetary award for outstanding rent in the amount of \$250.00. Further, having been successful, I find the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$350.00, which is comprised of \$250.00 in unpaid rent and \$100.00 as recovery of the filing fee.

Conclusion

The Landlord is granted a monetary order in the amount of \$350.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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