Dispute Resolution Services

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, received at the Residential Tenancy Branch on December 1, 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 attended the hearing on his own behalf and provided affirmed testimony. He was accompanied by his legal counsel, T.B. The Tenants did not attend the hearing.

The Landlord testified the Application package, including the Notice of a Dispute Resolution Hearing, was served on each of the Tenants, in person, on December 7, 2016. Type-written statements, signed by the process server and a witness, were submitted in support. I find the Tenants received the Landlord's Application package on December 7, 2016.

The Landlord 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

The Landlord confirmed the Tenants vacated the rental unit at the end of January 2016. An order of possession is no longer required. Accordingly, I have not considered this aspect of the Landlord's Application 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 an order granting recovery of the filing fee?

Background and Evidence

The Landlord testified the tenancy began on a month-to-month basis in August 2012. Throughout the tenancy, rent in the amount of $1,000.00 per month was due on the first day of each month. No deposits were paid by the Tenants.

The Landlord testified rent has not been paid when due. He stated that prior to December 1, 2015, rent in the amount of $1,800.00 was outstanding. December 2015 rent was paid late, but the Landlord received only $500.00 in rent for January 2016. Accordingly, the Landlord testified that $2,300.00 remains outstanding.

The Landlord sought to recover the $2,300.00 in outstanding rent and $100.00 on account of the 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, the Landlord testified, and I find, that the Tenants did not pay rent when due during the tenancy. The Landlord testified that rent in the amount of $2,300.00 remains outstanding. The Tenants did not attend the hearing to dispute this amount, despite having been served with notice of the hearing. Accordingly, I find the Landlord is entitled to a monetary award of $2,300.00 for unpaid rent.

Having been successful, I find the Landlord is also entitled to recover the $100.00 filing fee paid to make this Application. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of $2,400.00, which consists of $2,300.00 in unpaid rent and $100.00 as recovery of the filing fee paid to make the Application.

Conclusion

The Landlord is granted a monetary order in the amount of $2,400.00. 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: June 6, 2017

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Residential Tenancy Branch