



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPR MNR
 Tenant: CNR

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord commenced proceedings against the Tenant by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Act*. However, in an Interim Decision dated May 30, 2017, the adjudicator determined she was unable to confirm service of the notice to end tenancy for unpaid rent or utilities, dated May 6, 2017, and ordered that the matter be scheduled for a participatory hearing. However, the Landlord subsequently submitted a further Application for Dispute Resolution, dated June 20, 2017 (the “Application”). The Landlord testified the Application package, including the Notice of a Dispute Resolution Hearing, was served on the Tenant by registered mail on June 21, 2017. A Canada Post registered mail receipt was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Application package is deemed to have been received by the Tenant on June 26, 2017.

The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for unpaid rent or utilities; and
- a monetary order for unpaid rent or utilities.
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The Tenant’s Application for Dispute Resolution was received at the Residential Tenancy Branch on June 12, 2017 (the “Tenant’s Application”). The Tenant applied for the following relief pursuant to the *Act*:

- an order cancelling the notice to end tenancy for unpaid rent or utilities; and
- other unspecified relief.

The above matters were heard together for convenience.

The Landlord attended the hearing on his own behalf and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord was provided with 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.

Issues

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord submitted into evidence a copy of the tenancy agreement between the parties. It confirms a fixed-term tenancy for the period from August 15, 2016 to August 1, 2017. Rent in the amount of \$1,800.00 per month was due on the second day of each month. The Tenant paid a security deposit of \$700.00 and a pet damage deposit of \$200.00, which the Landlord holds.

The Landlord testified the Tenant has not paid rent when due. He stated the Tenant has made some partial payments but that rent in the amount of \$7,150.00 remains outstanding, as follows:

Date	Rent due	Payments	Outstanding
February & March 2017:	\$3,600.00	\$2,850.00	\$750.00
April 2017:	\$1,800.00	\$800.00	\$1,000.00
May 2017:	\$1,800.00	\$0	\$1,800.00
June 2017:	\$1,800.00	\$0	\$1,800.00
July 2017:	\$1,800.00	\$0	\$1,800.00
TOTAL:	\$10,800.00	\$3,650.00	\$7,150.00

The Landlord issued two notices to end tenancy for unpaid rent or utilities, copies of which were submitted into evidence by the Landlord. The first, dated May 6, 2017, was served on the Tenant by courier on May 8, 2017. A delivery receipt submitted by the Landlord confirmed delivery on May 9, 2017.

The second notice, dated June 8, 2017, was served on the Tenant by registered mail on the same date. A Canada Post delivery notice submitted by the Landlord confirmed delivery on June 9, 2017.

The Landlord also made a claim for unpaid utilities. Although he relied on a written demand letter, dated June 20, 2017, and submitted numerous invoices, the Landlord was unable to confirm how he calculated the amount sought. The Landlord was provided with ample opportunity to provide evidence with respect to how this determination was made. During the hearing, the Landlord conceded he was unable to provide a calculation and withdrew this aspect of his claim.

The Tenant did not attend the hearing to dispute the Landlord's testimony and evidence.

Analysis

Based on all of the above, the evidence and unchallenged testimony, and on a balance of probabilities, I find as follows.

Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy for unpaid rent or utilities. In this case, I find the notices to end tenancy for unpaid rent or utilities were received by the Tenant on May 9 and June 9, 2017, respectively.

In addition, I find the Tenant did not pay rent when due and that \$7,150.00 remains outstanding. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

Further, pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$7,250.00, which is comprised of \$7,150.00 in unpaid rent and \$100.00 in recovery of the filing fee.

The Tenant's Application is dismissed.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$7,250.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

The Tenant's Application is dismissed.

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: July 21, 2017

Residential Tenancy Branch