



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlord (the "agent") and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that he had been served with the landlord's documentary evidence and that he had the opportunity to review that evidence prior to the hearing. The tenant also confirmed that he did not serve the landlord with documentary evidence. I find the tenant was sufficiently served in accordance with the *Act*.

Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities?
- Is the landlord entitled to a monetary order for unpaid rent or utilities, and if so, in what amount?

Background and Evidence

The parties agreed that there was no written tenancy agreement. The parties also agreed that a month to month tenancy began on November 1, 2015 and that the current monthly rent was \$650.00 per month and due on the first day of each month. The parties agreed that the tenant did not pay a security deposit or pet damage deposit at the start of the tenancy.

The tenant did not dispute that he provided a cheque for January 2017 that was returned as NSF (non-sufficient funds) dated January 1, 2017 and that he owes the landlord \$650.00 accordingly. The agent explained that the rent is showing as unpaid for June 2017 as the

landlord applied payments received after January 2017 to the debt owing for unpaid rent as follows:

Rent owing due date	Amount paid & details	Amount owing
January 1, 2017	\$0.00 (due to NSF cheque)	\$650.00 for January 2017
February 1, 2017	\$650.00 applied to January 2017 rent owing	\$650.00 for February 2017
March 1, 2017	\$650.00 applied to February 2017 rent owing	\$650.00 for March 2017
April 1, 2017	\$650.00 applied to March 2017 rent owing	\$650.00 for April 2017
May 1, 2017	\$650.00 applied to April 2017 rent owing	\$650.00 for May 2017
June 1, 2017	\$650.00 applied to May 2017 rent owing	\$650.00 for June 2017
July 1, 2017	\$650.00 for "use and occupancy" for July 2017	\$650.00 still owing for June 2017
August 1, 2017	\$650.00 for "use and occupancy" for August 2017	\$650.00 still owing for June 2017
September 1, 2017	\$650.00 for "use and occupancy" for September 2017	\$650.00 still owing for June 2017

The tenant agrees that \$650.00 in rent is owed which I find is owed for June 2017 rent. The parties confirmed that the 10 Day Notice was served on the tenant and according to the registered mail records submitted in evidence the tenant was served on June 7, 2017. The tenant also confirmed that he did not pay the \$650.00 owing or dispute the 10 Day Notice after being served with the 10 Day Notice. The effective vacancy date listed on the 10 Day Notice was June 22, 2017 which has passed.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant failed to pay the full amount of rent owing or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice. The effective vacancy date of the Notice was June 22, 2017. The tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective vacancy date of the Notice. The tenant continues to occupy the rental unit. Therefore, I grant the landlord an order of possession effective **September 30, 2017 at 1:00 p.m.** as the landlord has received money from the tenant for use and occupancy of the rental unit for September 2017.

Claim for unpaid rent – There is no dispute that the tenant owes \$650.00 for unpaid rent which is unpaid rent for June 2017. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement.

Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find the landlord has met the burden of proof and has established a monetary claim of **\$650.00** comprised of unpaid rent for June 2017.

As the landlord has succeeded with their application, I grant the landlord the recovery of the filing fee in the amount of **\$100.00**.

Pursuant to section 67 and 72 of the *Act*, I find the landlord has established a total monetary claim of **\$750.00** comprised of \$650.00 owing for unpaid June 2017 rent plus the recovery of the cost of the \$100.00 filing fee.

Conclusion

The landlord's application is fully successful.

The landlord has been granted an order of possession effective September 30, 2017 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has established a total monetary claim of \$750.00 as indicated above and has been granted a monetary order in that amount accordingly.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 1, 2017

Residential Tenancy Branch