



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD., CLAIRE FLEWELLING & ERIN PARSONS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LANDLORD: OPR, MNR
TENANT: CNR

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking an Order of Possession and a monetary order for unpaid rent and utilities.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy.

Service of the hearing documents by the Landlords to the Tenant were done by registered mail on July 27, 2017 in accordance with section 89 of the Act.

This matter was set for hearing at 11:00 a.m. on this date. The Tenant failed to attend the hearing.

Residential Tenancy Branch Rules of Procedure, section 10.1, provides:

10.1 Commencement of the dispute resolution proceeding

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of an appearance by the Tenant the Tenant's application is abandoned and dismissed without leave to reapply.

The Landlord said at the start of the hearing that the Tenant moved out of the unit on August 31, 2017. Therefore they are withdrawing their request for an Order of Possession as the Landlord has possession of the rental unit.

Issues to be Decided

Landlord:

1. Is there unpaid rent and utilities and if so how much?
2. Are the Landlords entitled to compensation for unpaid rent and utilities and if so how much?

Background and Evidence

This tenancy started on August 1, 2016 as a fixed term tenancy with an expiry date of January 31, 2017 and then renewed on a month to month basis. Rent was \$2,200.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$1,125.00 at the start of the tenancy. .

The Landlord said that the Tenant did not pay \$2,200.00 of rent and \$2,352.16 of utilities as of July, 2017 when it was due and as a result, on July 11, 2017 the Landlord posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated July 11, 2017 on the door of the Tenant's rental unit. As well the Landlord said the Tenant has unpaid rent for August, 2017 in the amount of \$2,200.00 and unpaid utilities from June to August, 2017 in the amount of \$822.74. The Landlord said they paid the utilities and the Landlord want to recover the cost of utilities used by the Tenant. The Landlord submitted the 10 Day Notice to End Tenancy with the July, 2017 unpaid rent and utilities indicated on it and copies of the paid utility bills. The Landlord requested a monetary Order for the total amount of unpaid rent and utilities in the amount of \$7,574.90.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant does not have the right under the Act to withhold part or all of the rent for July and August, 2017, therefore I find in favour of the Landlord for the unpaid rent of \$2,200.00 for each month of July and August, 2017. As well unpaid utilities after 30 days and if paid by the Landlord are considered the same as unpaid rent under the Act. The Landlord has provided copies of the paid utility invoices therefore I award the Landlord the cost of the utilities in the amount of \$2,352.16 for up to June, 2017 and \$822.74 for June to August 31, 2017.

Further the Landlords indicated that there is damage to the rental unit so they will be making another application to retain the Tenant's security deposit and for compensation for damage or loss. The Landlord did not request to retain the Tenant's security deposit with this application.

The Landlord will receive a monetary order for the balance owing as following:

Rent arrears: (\$2,200.00 X 2)	\$4,400.00	
Unpaid Utilities	\$3,174.90	
Subtotal:		\$7,574.90
Balance Owing		\$7,574.90

Conclusion

A Monetary Order in the amount of \$7,574.90 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply.

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: October 14, 2017

Residential Tenancy Branch