



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPN, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:45 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As the landlord's representative at this hearing (the landlord) gave sworn testimony that the tenant vacated the rental unit on October 4, 2017, the landlord withdrew the application for an Order of Possession. This aspect of the landlord's application is withdrawn.

The landlord gave sworn testimony supported by written evidence that the landlord's dispute resolution hearing package and written evidence package were sent to the tenant by registered mail on September 9, 2017. The landlord provided copies of the Canada Post Tracking Number to confirm this registered mailing. The landlord also provided a copy of the Canada Post Online Tracking record, which noted that this package was returned to the landlord on October 18, 2017, after notices were provided to the tenant, and the package remained unclaimed. In accordance with sections 88, 89 and 90 of the *Act*, I find that these packages were deemed served to the tenant on September 14, 2017, the fifth day after their registered mailing.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord entered into written evidence copies of two Residential Tenancy Agreements signed by the parties for this rent geared to income tenancy. The first of these Agreements, signed on May 27, 2014, was for a six-month fixed term tenancy that covered the period from May 27, 2014 until November 11, 2014. A subsequent month-to-month Agreement was entered into as of December 1, 2014, the agreement in place for the portions of this tenancy that formed the basis for the landlord's application. The landlord gave undisputed sworn testimony that by the end of this tenancy the tenant's portion of the monthly rent was \$915.00, payable on the first of each month.

The landlord entered into written evidence a copy of the tenant's August 31, 2017 written notice to end this tenancy by September 30, 2017. The landlord gave sworn testimony that the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was mailed to the tenant on September 11, 2017. The landlord also entered into written evidence a copy of a repayment agreement that the tenant signed on August 15, 2017, to reimburse the landlord for a total of \$1,546.00 in rent owing for June, July and August 2017, as of August 3, 2017. The landlord confirmed that the tenant repaid \$500.00 of this amount owing as per the terms of that agreement. This left \$1,046.00 in outstanding rent owing for the three months prior to September 2017. The landlord gave undisputed sworn testimony that the tenant has not paid anything towards the remaining \$1,046.00 owing for June, July and August 2017, and has not paid \$665.00 of her September 2017 rent for this tenancy.

The landlord's application for a monetary award for unpaid rent of \$1,711.00 was comprised of the following:

Item	Amount
Unpaid Rent Owing for June, July and August 2017	\$1,046.00
Unpaid September Rent	665.00
Total Monetary Order	\$1,711.00

In addition, the landlord applied to recover the \$100.00 filing fee for the landlord's application.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

There is undisputed evidence that the tenant has not paid the \$1,711.00 in outstanding rent identified as owing by the landlord. I find that the landlord is entitled to a monetary award in this amount for unpaid rent owing from this tenancy.

As the landlord has been successful in this application, I allow the landlord to recover the \$100.00 filing fee for this application.

Conclusion

I issue a monetary Order in the amount of \$1,811.00, under the following terms, which allows the landlord to recover unpaid rent and the filing fee for this application:

Item	Amount
Unpaid Rent Owing for June, July and August 2017	\$1,046.00
Unpaid September Rent	665.00
Filing Fee	100.00
Total Monetary Order	\$1,811.00

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

The landlord's application for an Order of Possession for unpaid rent is withdrawn. 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: November 06, 2017

Residential Tenancy Branch