



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPB MNR MNDC FF

Introduction

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

- an order of possession based on a mutual agreement to end tenancy pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on September 10, 2017, he personally served the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing. The landlord provided a signed statement from the tenant acknowledging receipt of the application.

Based on the above evidence, I am satisfied that the tenant was personally served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary award for unpaid rent or loss?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on December 15, 2014 and the current monthly rent is \$775.00 payable on the 1st day of each month. The tenant paid a security deposit of \$375.00 at the start of the tenancy.

The landlord testified that on June 30, 2017 the parties entered into a mutual agreement to end the tenancy effective July 30, 2017. A signed Mutual Agreement to End Tenancy form was provided with the application.

The landlord's claim is for outstanding rent or loss of rent in the amount of \$2130.00. The landlord testified that this includes unpaid rent or loss of rent for the months of August, September, October and November 2017. The total loss of rent from these four months was \$3100.00 less a payment of \$870.00 received from the tenant on November 20, 2017.

Analysis

Pursuant to section 44(1)(c) of the Act, a tenancy ends if the landlord and tenant agree in writing to end the tenancy. Pursuant to section 55(2)(d) of the Act, a landlord may request an order of possession of a rental unit if the landlord and tenant have agreed in writing that the tenancy has ended.

The tenant and landlord agreed in writing that the tenancy would end on July 30, 2017. The landlord was entitled to possession of the rental unit effective this date.

The landlord is granted an Order of Possession pursuant to section 55 of the Act.

I accept the landlord's uncontested evidence and find that the landlord suffered a loss of rent in the amount of \$2130.00 as the tenant failed to vacate the rental unit or pay for use and occupancy of the rental unit.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2230.00.

The landlord continues to hold a security deposit of \$375.00. Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1855.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1855.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 29, 2017

Residential Tenancy Branch