



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD: OPR, MNR, FF
TENANT: CNR, O

Introduction

The Landlord said he served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 15, 2017. Based on the Landlord’s evidence I find that the Tenant was served with the Landlord’s hearing packages as required by s. 89 of the Act.

The Tenants said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 5, 2017. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing packages as required by s. 89 of the Act.

Both parties confirmed receiving the others hearing package and the hearing was convened with all parties in attendance.

At the start of the hearing the Tenant said she had moved out of the rental unit on September 15, 2017, so she is withdrawing her application to cancel the Notice to End Tenancy and for other considerations.

Further the Landlord said as he has possession of the rental unit he is withdrawing his application for an Order of Possession, but he is continuing with his monetary claim for unpaid rent and to recover the filing fee.

Issue(s) to be Decided

Landlord:

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

Background and Evidence

This tenancy started on February 1, 2017 as a month to month tenancy. The rent was \$750.00 per month payable on the first of each month. The Tenant paid a security deposit of \$375.00 at the start of the tenancy. A condition inspection report was completed at the start and end of the tenancy.

The Landlord said he served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated September 4, 2017. He served the Notice on September 4, 2017 by posting the Notice on the Tenant's door of the rental unit. The Effective Vacancy date on the Notice was September 14, 2017. The Landlord said the Tenant moved out of the unit on September 15, 2017 with \$750.00 of unpaid rent. The Landlord said he is requesting the unpaid rent of \$750.00 and to recover the filing fee of \$100.00 from the Tenant. Further the Landlord said he has retained the Tenant's security deposit of \$375.00 and there was no damage to the rental unit.

The Tenant said she gave the Landlord written notice on August 28, 2017 that she was moving out of the rental unit on September 30, 2017. The Tenant said she understood that she had an agreement with the Landlord that she could pay \$375.00 ½ the September, 2017 rent and the Landlord could keep the Tenant's security deposit of \$375.00 as the balance of the rent. The Tenant said the Landlord did not accept her cheque for \$375.00 and then the Landlord issued a 10 Day Notice to End Tenancy for unpaid rent. The Tenant said she moved out on September 15, 2017 as a result of the Notice to End Tenancy. The Tenant said the Landlord is not being fair as she tried to pay the rent and he did not accept her payment.

The Landlord said he did not agree to the ½ rent payment and there is \$750.00 of unpaid rent for September, 2017.

The Tenant agreed the Landlord was not paid the September, 2017 rent of \$750.00 but she thought they had an agreement. The Tenant said she knows that the rent has to be paid but she wanted to pay the rent with a cheque for \$375.00 and the balance to come from her security deposit of \$375.00.

The Landlord said in closing he is requesting the \$750.00 of unpaid rent be paid and he would like to recover the filing fee of \$100.00.

The Tenant said in closing that this process was unnecessary and she feels it was unfair.

Analysis

Section 26 (1) of the Act 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.

I accept the Landlord's testimony and evidence that there is unpaid rent in the amount of \$750.00. Consequently, I find for the Landlord and award the Landlord a monetary claim for unpaid rent of \$750.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the unpaid rent. The Landlord will receive a monetary order for the balance owing as following:

	Unpaid rent	\$ 750.00	
	Filing fee	\$ 100.00	
	Sub Total		\$850.00
Less	Security Deposit	\$375.00	
	Sub Total		\$375.00
Total owing			\$ 475.00

Conclusion

A Monetary Order in the amount of \$475.00 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 to cancel the Notice to End Tenancy and for other considerations 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 27, 2017

Residential Tenancy Branch