



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on November 14, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for unpaid rent or utilities; and
- An order granting recovery of the filing fee.

The Landlord was represented at the hearing by J.P. and D.L., agents. Both J.P. and D.L. provided a solemn affirmation at the beginning of the hearing. The Tenant did not attend the hearing.

On behalf of the Landlord, J.P. testified the Application package was served on the Tenant by registered mail on November 21, 2017. A subsequent documentary evidence package was served on the Tenant by registered mail on June 8, 2018. Pursuant to section 71 of the *Act*, I find these documents were sufficiently served on the Tenant for the purposes of the *Act*.

The Landlord's agents were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed that a fixed-term tenancy was in effect from September 1, 2016, to August 31, 2017. Thereafter, the tenancy continued on a month-to-month basis. J.P. testified the tenancy ended when the Tenant vacated the rental unit on October 31, 2017, after giving written notice of her intention to do so on October 10, 2017. Rent in the amount of \$1,195.00 per month was due on the first day of each month. The Tenant paid a security deposit in the amount of \$597.50, which the Landlord holds. A pet damage deposit of \$597.50 was returned to the Tenant.

According to J.P., the Tenant's roommate gave notice of his intention to vacate the rental unit on October 1, 2017. Although discussions about the Tenant finding a new roommate followed, the Tenant decided to vacate the rental unit. In a hand-written note dated October 10, 2017, the Tenant provided written notice of her intention to vacate the rental unit on October 31, 2017. A copy of the Tenant's notice was submitted with the Landlord's documentary evidence.

On behalf of the Landlord, J.P. testified the Tenant did not pay rent when due on November 1, 2017. However, the Landlord was able to re-rent the unit, effective June 15, 2017. A copy of the new tenancy agreement was submitted with the Landlord's documentary evidence.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 45 of the *Act* confirms that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. In this case, the earliest effective date of the Tenant's notice – whether provided to the Landlord on October 1 or 10, 2017 – was November 30, 2017.

In addition, section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a

portion of the rent. I find the Tenant did not provide notice to end the tenancy in accordance with section 45 of the *Act*, and that rent was due on November 1, 2018. However, J.P. testified, and I find, that rent was not paid when due on November 1, 2017.

On behalf of the Landlord, J.P. testified that the rental unit was re-rented as of November 15, 2018. By doing so, I find the Landlord did what was reasonable to minimize the damage or loss, in accordance with to section 7(2) of the *Act*. I find the Landlord has demonstrated an entitlement to a monetary award of \$557.67 for unpaid rent for the period from November 1-14, 2017, which has been calculated as follows:

$$(\$1,195.00 / 30 \text{ days}) \times 14 \text{ days} = \$557.67$$

Having been successful, I also find the Landlord is entitled to recover the filing fee. The Landlord may also retain the security deposit held in partial satisfaction of the claim. Accordingly, pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$60.17, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$557.67
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$597.50)
TOTAL:	\$60.17

Conclusion

The Landlord is granted a monetary order in the amount of \$60.17. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 26, 2018

Residential Tenancy Branch