



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on March 21, 2018 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord testified the Application package was served on the Tenant in person on March 22, 2018. I find the Tenant was served with and received the Application package on that date.

The Landlord was provided with the 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.

Preliminary and Procedural Matters

According to the Landlord, the Tenant vacated the rental unit at the end of March 2018. Accordingly, an order of possession is no longer required. This aspect of the Application has not been considered further 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

The Landlord submitted a copy of the tenancy agreement into evidence. It confirmed the tenancy began on August 1, 2017. Rent in the amount of \$1,750.00 per month was due in two equal installments of \$875.00, payable on the 10th and 25th of each month. The Tenant paid a security deposit of \$750.00, which the Landlord holds.

The Landlord testified the Tenant did not pay rent when due. Accordingly, he issued the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 14, 2018 (the "10 Day Notice"), a copy of which was submitted into evidence. The Landlord testified the 10 Day Notice was served on the Tenant via email on March 14, 2018, and in person on March 15, 2018. At that time, rent in the amount of \$2,110.00 was outstanding. According to the Landlord, rent was also not paid when due on March 25, 2018. Currently, rent in the amount of \$2,985.00 remains outstanding.

The Landlord also sought to recover the filing fee paid to make the Application.

Analysis

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

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. In this case, the Landlord testified, and I find, that rent was not paid when due and that \$2,985.00 remains outstanding. Having been successful with the Application, I also find the Landlord is entitled to recover the filing fee. I also find it is appropriate in the circumstances to apply the security deposit held to the amount owed to the Landlord.

Pursuant to section 67 of the *Act*, I find the Landlord has demonstrated an entitlement to a monetary order in the amount of \$2,335.00, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$2,985.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$750.00)
TOTAL:	\$2,335.00

Conclusion

The Landlord is granted a monetary order in the amount of \$2,335.00. The monetary 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 6, 2018

Residential Tenancy Branch