



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS AGENCIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Landlord: MNR FF
Tenant: CNR

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord’s Application for Dispute Resolution was made on June 19, 2018 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

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

The Tenant’s Application for Dispute Resolution was made on February 28, 2018 (the “Tenant’s Application”). The Tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 14, 2018 (the “10 Day Notice”).

The Landlord was represented at the hearing by T.W. and E.H., agents. The Tenant did not attend the hearing. The Landlord’s agents were 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I find that the Tenant’s Application to cancel the 10 Day Notice is dismissed, without leave to reapply. When a tenant’s application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord. Having reviewed the 10 Day Notice, I find it complies with section 52 of

the Act. Accordingly, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant. The Tenant's Application has not been considered further in this Decision.

I also note the Tenant's Application confirmed receipt of the 10 Day Notice on February 15, 2018, but that the Tenant's Application was not made until February 28, 2018.

Issues

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

During the hearing, the Landlord's agents testified that the tenancy began on March 1, 1999. The Tenant continues to occupy the rental unit. Currently, rent in the amount of \$684.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$232.50, which the Landlord holds.

The Landlord's agents testified the Tenant did not pay rent when due. Accordingly, the Landlord issued the 10 Day Notice. The Tenant's Application confirmed receipt of the 10 Day Notice on February 15, 2018. At that time, outstanding rent totalled \$198.00, which remains outstanding.

The Landlord's agents also testified the Tenant has not paid parking fees of \$15.00 per month when due. When the 10 Day Notice was issued, \$465.00 was outstanding. The Tenant has continued not to pay this amount and \$540.00 is currently outstanding. In support, the Landlord submitted copies of letters to the Tenant dated May 4, 2015, September 28, 2016, September 26, 2017, and February 14, 2018.

The Landlord also sought to recover the \$100.00 filing fee paid to make the Application.

Analysis

Based on all of the above, the evidence and unchallenged testimony, and on a balance of probabilities, I find:

The Landlord's agents testified that rent and parking fees totalling \$738.00 are currently outstanding. I find that rent and parking fees were not paid when due and that the Landlord has demonstrated an entitlement to a monetary award of \$738.00. Having been successful, I also find the Landlord is entitled to recover the filing fee paid to make the Landlord's Application. Further, I find it appropriate in the circumstances to permit

the Landlord to retain the security deposit in partial satisfaction of the claim. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$605.50, which has been calculated as follows:

Claim	Amount
Unpaid rent and parking:	\$738.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$232.50)
TOTAL	\$605.50

Conclusion

The Tenant's Application is dismissed, without leave to reapply.

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$605.50. 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: July 11, 2018

Residential Tenancy Branch