



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This decision pertains to the Landlord's application for dispute resolution made on May 16, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlord sought the following relief under the Act:

1. a monetary order for \$8,000.00 in unpaid rent;
2. a monetary order for \$100.00 for recovery of the filing fee; and,
3. an order of possession of the rental unit.

The personal representative of the Landlord's estate (the "Representative") attended the hearing before me, was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The Tenants did not attend.

The Representative became executor of her mother's estate on March 26, 2018, and submitted into evidence a copy of a Supreme Court of British Columbia Form P19, granting administration of the estate of the deceased Landlord to the Representative.

The Representative testified that she served each Tenant with a Notice of Dispute Resolution Proceeding package (the "Notice") by Canada Post registered mail on May 31, 2018. Pursuant to subsection 90(a) of the Act, each Tenant was deemed to have received the Notice on June 5, 2018. The Representative submitted into evidence a copy of Canada Post registered mail receipts and tracking numbers.

Given the above, I find that the Landlord served the Tenants the Notice in compliance with section 89 of the Act.

The Landlord informed me at the start of the hearing that the Tenants moved out in mid-June 2018, and that she no longer required an order of possession. As such, I amended the Landlord's application to exclude her request for an order of possession.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for \$8,000.00 in unpaid rent?
2. Is the Landlord entitled to a monetary order for \$100.00 for recovery of the filing fee?

Background and Evidence

The Representative testified that the Tenants moved into the rental unit in September 2013. Monthly rent was \$500.00. No security or pet damage deposit was paid. The Representative submitted into evidence a copy of a written tenancy agreement (the first page of the agreement was missing, but the remainder of the agreement, including the pages listing the amount of rent and the signatures of the parties, was provided).

The Tenants stopped paying rent in 2016. The Representative seeks a monetary order for \$8,000.00 in unpaid rent. The Representative testified that while the Tenants owe much more than this, she advised me that she only seeks this amount. The Representative submitted into evidence a Monetary Worksheet itemizing the months for which the Tenants did not pay rent, and on which the claim for unpaid rent is based: January 2017 to April 2018, inclusive.

In early 2018, the Representative tried on a few occasions to collect rent and make some sort of rent payment arrangements with the Tenants. The Tenants told her to “F off” and “get lost.”

After those unsuccessful attempts to collect rent, the Representative issued a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”) and served the Tenants with the 10 Day Notice by way of Canada Post registered mail on April 19, 2018. The Representative submitted into evidence a copy of a Canada Post receipt and registered mail tracking number. The Canada Post registered mail tracking internet site indicated that the 10 Day Notice was picked up by the male Tenant on April 20, 2018.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the 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.

The Representative testified, and provided documentary evidence to support her

submission, that the Tenants did not pay rent when it was due, and did not pay rent for the period of January 2017 to April 2018, inclusive. Further, there is no evidence before me to find that the Tenants had any right under the Act to deduct all or a portion of the rent. And, there is no evidence before me to find that the Tenants filed an application for dispute resolution within the five days.

Taking into consideration all of the oral and documentary evidence, and unchallenged testimony presented before me, and applying the law to the facts, I find on a balance of probabilities that the Representative has met the onus of proving her claim for unpaid rent. Therefore, I find that the Landlord is entitled to a monetary award of \$8,000.000 for unpaid rent, pursuant to section 67 of the Act. I also grant the Landlord a monetary award of \$100.00 for recovery of the filing fee.

Conclusion

I grant the Landlord a monetary order for \$8,100.00. This 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 subsection 9.1(1) of the Act.

Dated: July 17, 2018

Residential Tenancy Branch