



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, OPR, FFL

Introduction

On June 15, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for the rental unit, a Monetary Order for unpaid rent, to apply the security deposit to the claim and to recover the cost of the Filing Fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 21-minute hearing. The Landlord testified that the Tenant was served with the Notice of Hearing by sending it via registered mail on June 18, 2018. The Landlord provided the tracking number for the registered mail and according to the Canada Post website, the Tenant signed for the Notice of Hearing package on June 24, 2018. I find that the Tenant has been duly served with the Notice of Hearing in accordance with Sections 89 of the Act.

The Landlord was provided the opportunity to present her affirmed testimony and evidence at the hearing.

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 Matters

The Landlord asked to amend the Application by canceling her request for an Order of Possession as the Tenant had vacated the rental unit on June 30, 2018. In accordance with Section 64(3) of the Act, I have amended the Landlord’s Application to only include

a request for a Monetary Order for unpaid rent, to apply the security deposit to the claim and to recover the cost of the Filing Fee.

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in her absence and the Application, as amended, was considered along with the evidence as presented by the Landlord.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for the June 2018 unpaid rent of \$1,497.00, under Section 67 of the Act?

Is the Landlord entitled to retain the security deposit in partial satisfaction of any monetary award, pursuant to Section 72 of the Act?

Is the Landlord entitled to the \$100.00 filing fee, pursuant to Section 72 of the Act?

Background and Evidence

The Landlord provided affirmed testimony and stated that the tenancy originally started as a 1-year fixed tenancy on December 31, 2015 and continued as a month-to-month tenancy. The monthly rent was \$1,497.00, which was due on the first of each month. The Landlord collected and still holds a security deposit of \$675.00.

The Landlord stated that the Tenant failed to pay her June rent and as a result, a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") was served by posting the Notice on the Tenant's door on June 3, 2018 with an effective vacancy date of June 13, 2018. A Proof of Service form was provided as evidence and contained a witness signature; however, the witness did not attend at this hearing.

The Tenant did not dispute the Notice within the required five days and did not pay the rent for June 2018. The Tenant did not vacate the premises until June 30, 2018, when she participated in a move-out inspection with the Landlord.

The Landlord provided a ledger that outlined the Tenant's history of paying rent. The ledger indicated an outstanding balance as a result of the Tenant failing to pay the June

2018 rent for a total of \$1,497.00. The Landlord is requesting a Monetary Order for this amount and wishes to apply the security deposit against this claim.

Analysis

Section 26 of the Act explains that the Tenant must pay rent when it is due under the Tenancy Agreement. I accept the Landlord's undisputed testimony, supported by the evidence submitted, that the Tenant failed to pay her rent for June 2018 in the amount of \$1,497.00. I find that the Tenant is in breach of Section 26 of the Act and that the Landlord has proven her claim for a monetary award.

Section 38 of the Act explains the responsibilities of the Landlord regarding the return of the security deposit. The Landlord had applied for Dispute Resolution requesting to apply the security deposit against the rental arrears prior to the Tenant moving out of the rental unit in accordance with Section 38 of the Act. As a result, and pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenant's security deposit of \$675.00, in partial satisfaction of the monetary claim.

The Landlord has been successful in her Application and is awarded the filing fee of \$100.00.

In accordance with Section 67 of the Act, I issue a Monetary Order in the Landlord's favour under the following terms, which allows the Landlord to recover unpaid rent, the filing fee for this Application, and to retain the Tenant's security deposit:

Item	Amount
Unpaid June 2018 Rent	\$1,497.00
Less Security Deposit	-675.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$922.00

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,597.00, which includes \$1,497.00 in unpaid rent and \$100.00 in compensation for the fee paid to file

this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenant's security deposit of \$675.00, in partial satisfaction of the monetary claim.

Based on these determinations, I grant the Landlord a Monetary Order for the balance of \$922.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: August 10, 2018

Residential Tenancy Branch