



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the Landlord: OPRM-DR, FFL
For the Tenant: CNR, PSF, RP, FFT

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 August 21, 2018 (the “landlord’s application”), and the landlord seeks an order of possession for unpaid rent, a monetary order for unpaid rent, and a monetary order for recovery of the filing fee.

The tenant’s application for dispute resolution was made on August 9, 2018 (the “tenant’s application”), and the tenant seeks an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, an order for the landlord to provide services or facilities required by the tenancy agreement, an order for regular repairs, and a monetary order for recovery of the filing fee.

Two agents for the landlord (collectively referred to as the “landlord” where testimony was provided) attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant did not attend.

The landlord testified that they served the tenant with the Notice of Dispute Resolution Proceeding package (the “package”) by registered mail on August 23, 2018. I find that the tenant was served with the package in compliance with section 89(1)(c) of the Act.

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 an order of possession for unpaid rent?
2. Is the landlord entitled to a monetary order for unpaid rent?
3. Is the landlord entitled to a monetary order for recovery of the filing fee?
4. Is the tenant entitled to an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent?
5. Is the tenant entitled to an order for the landlord to provide services or facilities required by the tenancy agreement?
6. Is the tenant entitled to an order for regular repairs?
7. Is the tenant entitled to a monetary order for recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on September 1, 2014, and was initially a one-year fixed term, which then continued on a month-to-month basis. Monthly rent was \$1,075.00, due on the first of the month. The tenant paid a security deposit of \$525.00 and a pet damage deposit of \$525.00, both of which are held by the landlord. A copy of a written tenancy agreement was submitted into evidence.

A 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") was issued and served on the tenant on August 6, 2018, for unpaid rent and parking fees that were due on August 1, 2018, in the amount of \$1,139.00. The effective end of tenancy date was August 17, 2018. The Notice was served by being posted to the tenant's door on August 8, 2018. According to Residential Tenancy Branch file information, the tenant filed an application for dispute resolution on August 9, 2018.

The landlord testified that the tenant vacated the rental unit on September 1, 2018, and as such, they are currently only seeking a monetary order for unpaid rent and parking fees, and for recovery of the filing fee.

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. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days of service. While the tenant filed an application for dispute resolution within the required time, she did not attend the hearing.

Taking into consideration all the evidence and the unchallenged testimony of the landlord presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim regarding unpaid rent for August 2018 in the amount of \$1,139.00.

For the reasons set out above, I find that the landlord is entitled to a monetary award for unpaid rent in the amount of \$1,139.00. Further, I find that the landlord is entitled to a monetary award in the amount of \$100.00 as recovery for the filing fee.

Section 72(2) of the Act states that if the arbitrator order a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted, in the case of a payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Applying section 72(2) of the Act, I order that the security and pet damage deposits held be applied to the award granted to the landlords.

A total monetary award of \$189.00 for the landlord is calculated as follows:

CLAIM	AMOUNT
Unpaid rent	\$1,139.00
Filing fee	\$100.00
<i>LESS</i> security and pet damage deposits	(\$1,050.00)
Total:	\$189.00

Conclusion

I hereby grant the landlord a monetary order in the amount of \$189.00, which must be served on the landlord. The order may be filed in the Provincial Court of British Columbia and enforced as a judgment or an order of that court.

I dismiss the tenant's application in its entirety without leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: September 25, 2018

Residential Tenancy Branch