



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP, PSF, RP, RR
 FFL, OPRM-DR

Introduction

This hearing convened as a result of cross applications. In the Tenant's Application filed January 11, 2019 she sought the following relief:

- to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on January 3, 2019 (the "Notice");
- an order that the Landlord:
 - make repairs, emergency and otherwise; and,
 - provide services or facilities as required by law; and
- an order that the Tenant be permitted to reduce her rent for the cost of repairs, services or facilities.

In the Landlords' Application, filed January 12, 2019, they sought an Order of Possession and monetary compensation based on the Notice as well as recovery of the filing fee.

The hearing of the parties' respective applications was scheduled for teleconference at 9:30 a.m. on February 21, 2019. Only the Landlord, D.N., and her agent, M.D., called into the hearing.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 9:48 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and her agent and I were the only ones who had called into this teleconference.

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

Commencement of Hearing:

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

Consequences of not attending the hearing

If a party or their agent fails to attend the 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 hearing by 9:48 a.m., and the Landlord appeared and was ready to proceed, **I dismiss the entirety of the Tenant's claim without leave to reapply.**

The Landlord advised that she obtained an Order of Possession by Decision dated January 29, 2019. The file number for that application is provided on the unpublished cover page of this my Decision. The Landlord further advised the Tenant had vacated the rental unit prior to the hearing before me. Consequently, the Landlords' request for an Order of Possession was no longer required.

Issues to be Decided

1. Are the Landlords entitled to monetary compensation from the Tenant?
2. Should the Landlords recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement confirming that this tenancy began October 1, 2018. Monthly rent was payable in the amount of \$650.00 on the first of the month. Although the agreement provided that the Tenant was to pay a security deposit, the Landlord testified that no such deposit was paid by the Tenant.

The Landlord testified that the Tenant failed to pay the full amount of rent for October 2018 leaving a balance of \$162.50 owing. She also testified that the Tenant failed to pay rent for January and due to the Tenant over-holding their tenancy she suffered a loss of rent for February 2019 such that a total of \$1,362.50 was outstanding for rent.

Analysis

After consideration of the Landlords' undisputed testimony and evidence and on a balance of probabilities I find as follows.

I find the Tenant was obligated to pay rent of \$650.00 per month pursuant to the residential tenancy agreement. By failing to pay the rent as required the Tenant breached section 26 of the *Residential Tenancy Act*.

I accept the Landlord's evidence that the Tenant failed to pay the full amount of rent for October 2018 such that \$162.50 remained outstanding. I also accept the Landlord's testimony that the Tenant failed to pay the January 2019 rent of \$650.00. Although the Landlord was granted an Order of Possession on January 29, 2019, the Tenant failed to vacate the rental unit in time for the Landlords to re-rent the unit for February 1, 2019, such that they suffered a loss of rent for February 2019 in the amount of \$650.00. I therefore find the Landlords are entitled to recover the balance of the October 2018 rent, as well as the January and February 2019 rent from the Tenant.

Section 72 of the *Act* allows me to award recovery of the filing fee to a successful party. As the Landlords have been successful in their application, I find they shall also be entitled to recover the \$100.00 filing fee from the Tenant such that they are granted monetary compensation in the amount of **\$1,462.50**.

Conclusion

The Tenant's application is dismissed without leave to reapply.

As the Landlord has already been granted an Order of Possession by Decision dated January 29, 2019, and the Tenant vacated the rental unit, the Landlords' request for an Order of Possession is not required.

The Landlords are granted a Monetary Order in the amount of **\$1,462.50** for unpaid rent and recovery of the filing fee. The Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: February 21, 2019

Residential Tenancy Branch