



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: FFL OPRM-DR CNR DRI MNDCT OLC RPP

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for non-payment of rent and utilities pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- a monetary order for compensation for loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order requiring the landlord to return the tenant’s personal property pursuant to section 65.

The landlord’s agents JS and SP (‘landlord’), testified in this hearing on behalf of the landlord, and were given full authority to do so. While the landlord’s agents attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlord’s agents were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 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.

In the absence of any evidence or submissions from the tenant in this hearing, I order the tenant's entire application dismissed without liberty to reapply.

The landlord's agents gave sworn testimony that on March 13, 2019 the Application for Dispute Resolution hearing package ('Application') and evidence was served to the tenant by way of Registered Mail. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant deemed served with the landlord's application and evidence on March 18, 2019, five days after mailing.

The landlord's agents testified that they no longer require an Order of Possession as the tenants moved out some time in March of 2019. Accordingly, this portion of their application was cancelled.

Issue(s) to be Decided

Is the landlord entitled a Monetary Order for Unpaid Rent?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord's agents testified regarding the following facts. This fixed-term tenancy began on July 1, 2018, with monthly rent set at \$860.00, payable on the first of each month. The landlord collected, and still holds, a security deposit and a pet damage of \$430.00 each deposit.

The landlord issued the 10 Day Notice on March 2, 2019 to the tenant, indicating an effective move-out date of March 12, 2019. The landlord testified that the tenant has not paid any rent for March 2019, and has moved out. The landlord is seeking a Monetary Order for the unpaid rent totalling \$860.00.

Analysis

The landlord provided undisputed evidence that the tenant failed to pay rent for the month of March 2019. Therefore, I find that the landlord is entitled to \$860.00 for the unpaid rent.

As the landlord was successful with their application, I allow the landlord to recover the filing fee for this application.

The landlord continues to hold the tenant's security and pet damage deposits in the amounts of \$430.00 each. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security and pet damage in partial satisfaction of the monetary claim.

Conclusion

I dismiss the tenants' entire application without leave to reapply.

The landlord withdrew their application for an Order of Possession as the tenant had moved out.

I issue a \$100.00 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover the filing fee, and also allows the landlord to retain the tenant's security and pet damage deposits in satisfaction of the unpaid rent.

Item	Amount
Unpaid Rent for March 2019	\$860.00
Filing Fee	100.00
Less Security Deposit	-430.00
Less Pet Damage Deposit	-430.00
Total Monetary Order	\$100.00

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: April 23, 2019

Residential Tenancy Branch