



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 3, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- an order allowing the Landlord to retain the security deposit and/or pet damage deposit;
- an order granting recovery of the filing fee.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord testified the Application package was served on the Tenant by registered mail on January 7, 2019. The Application package was sent to the forwarding address provided by the Tenant on December 22, 2018. A Canada Post registered mail receipt was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Application package is deemed to have been received by the Tenant on January 12, 2019. The Tenant did not submit documentary evidence in response to the Application.

The Landlord was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to retain the security deposit and/or pet damage deposit?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the month-to-month tenancy began on June 1, 2018. The Tenant vacated the rental unit on December 15, 2018. Rent in the amount of \$1,500.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$750.00, which the Landlord holds.

The Landlord claims \$1,500.00 for rent due on January 1, 2019, as notice was not provided in accordance with the *Act*. The Landlord testified the Tenant's son-in-law called him on December 10, 2018, to advise the Tenant would be vacating the rental unit on December 15, 2019. This was the first notice the Landlord had received concerning the Tenant's desire to end the tenancy. The parties completed a move-out condition inspection on December 16, 2019. The Landlord testified the unit was re-rented effective February 1, 2019.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *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.

Further, section 45 of the *Act* confirms that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. In other words, written notice provided to a landlord is effective to end the tenancy on the last day of the following month.

In this case, the Landlord testified, and I accept, that the Tenant did not provide him with written notice to end the tenancy. The first the Landlord learned that the Tenant wished to end the tenancy was when the Tenant's son-in-law called on December 10, 2018. However, even if written notice was given to the Landlord on December 10, 2018, in accordance with section 45 of the *Act*, the earliest it could have been effective was January 31, 2019. I find the Tenant did not provide the Landlord with sufficient notice as required under section 45 the *Act*. Therefore, I find that the Landlord is entitled to a monetary award for unpaid rent in the amount of \$1,500.00, which was due on January 1, 2019.

Having been successful, I also find the Landlord is entitled to recover the filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the security deposit be applied to the Landlord's claim.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$850.00, which has been calculated as follows:

Claim	Amount allowed
Unpaid rent:	\$1,500.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$750.00)
TOTAL:	\$850.00

Conclusion

The Landlord is granted a monetary order in the amount of \$850.00. The monetary 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 26, 2019

Residential Tenancy Branch