



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARS PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

In this dispute, the landlord seeks compensation against their former tenant for unpaid rent and for recovery of the filing fee, pursuant to sections 67 and 72, respectively, of the *Residential Tenancy Act* (the “Act”).

On April 4, 2019 the landlord applied for dispute resolution by way of direct request proceeding, which was adjourned to a participatory hearing scheduled for May 31, 2019. The landlord’s agent (hereafter the “landlord”) attended the hearing and was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant did not attend the hearing.

The landlord testified that she served the Notice of Dispute Resolution Proceeding package (the “package”) on the tenant in early April 2019 by registered mail, but that the package was returned undelivered. In other words, the tenant failed to pick up her mail. Based on the undisputed evidence of the landlord I find that the tenant was duly served with the package in compliance with section 89 of the Act. The tenant’s failure to retrieve her mail does not change that she was deemed to have been served the package.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred, but only evidence relevant to the issues of this application are considered.

The landlord confirmed that the tenant was no longer in the rental unit as of May 20, 2019, and that the landlord had previously obtained an order of possession and a monetary order on May 6, 2019. Thus, she only seeks a monetary order.

Issues

1. Is the landlord entitled to compensation for unpaid rent?
2. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy began on February 18, 2019 and that monthly rent was \$1,150.00. The landlord obtained an order of possession for unpaid rent from an arbitrator at the Residential Tenancy Branch on May 6, 2019, after a series of hearings and review consideration hearings occurred. The tenant vacated the rental unit on May 20, 2019.

In addition, the landlord obtained a monetary order on May 6, 2019 for unpaid rent from February and March 2019, and for the filing fee.

For this application, the landlord seeks a monetary order for unpaid rent for the months of April 2019 and most of May 2019. And, compensation for the cost of the filing fee. The landlord is not claiming against a security or pet damage deposit.

Copies of the written tenancy agreement and documentary evidence establishing the tenant's failure to pay rent were submitted into evidence.

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 some of the rent.

The landlord testified, and provided documentary evidence to support their submission, that the tenant did not pay rent for April 2019 or rent for the period of May 1 to May 20, 2019, inclusive. I have no evidence before me to find that the tenant had a right under the Act to not pay the rent for the period that she resided in the rental unit.

Taking into consideration the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord met the onus of proving their claim for compensation for unpaid rent. I therefore grant the landlord a monetary award of \$1,891.94 (\$1,150.00 for April 2018 and \$741.94 for May 2019) for unpaid rent.

Section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the landlord was successful in this application I grant their claim for reimbursement of the filing fee of \$100.00.

Conclusion

I hereby grant the landlord a monetary order in the amount of \$1,991.94, which must be served on the tenant. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia (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 Act.

Dated: May 31, 2019

Residential Tenancy Branch