



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPRM-DR

Introduction

This hearing convened as a result of a Landlord's Application for an Order of Possession and monetary compensation by way of the Direct Request proceeding pursuant to section 55(4) of the *Residential Tenancy Act*. As the Landlord's application was incomplete, the Adjudicator adjourned the Landlord's Application to a participatory hearing.

The participatory hearing was scheduled for teleconference before me at 9:30 a.m. on this date.

At the outset of the hearing the Landlord confirmed that the Tenants vacated the rental unit on March 18, 2019. She confirmed that they did not provide a forwarding address and that aside from email she had no way of reaching the Tenants.

The Landlord filed an Application for Substituted Service on March 28, 2019. By Interim Decision dated April 15, 2019 I granted the Landlord's request to serve the Tenant by email.

The hearing was adjourned to June 3, 2019. At that time only the Landlord called into the hearing. She confirmed that on May 15, 2019 she served the Tenant by email. She further testified that the Tenant responded to her email confirming receipt. I accept the Landlord's testimony in this regard and find the Tenants were duly served with notice of the hearing and I proceeded with the hearing in their absence.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant based on the Notice?
2. Should the Landlord recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement confirming the following: this tenancy began August 15, 2018; monthly rent as payable in the amount of \$2,250.0 payable on the 15th of the month; and, the Tenants also paid a \$1,125.00 security deposit.

The Landlord issued the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities on February 17, 2019 the Notice indicated that the sum of \$7,000.00 was owed as of October 15, 2018. The Notice indicated it was posted to the rental unit door on February 17, 2019.

The Landlord also filed a Direct Request Worksheet in which she claimed the sum of \$7,000.00 in outstanding rent for the following:

November 2018	\$250.00
December 2018	\$2,250.00
January 2019	\$2,250.00
February 2019	\$2,250.00
TOTAL OUTSTANDING RENT	\$7,000.00

On the Application for Dispute Resolution the Landlord also referenced the sum of \$7,000.00.

During the hearing before me the Landlord testified that the Tenant only paid \$2,000.00 for the October rent and failed to pay anything for November 2018 – March 2019.

The Landlord testified that the Tenant vacated the rental unit as of March 18, 2019 and she was able to re-rent the unit as of April 1, 2019. As such, the Landlord also sought monetary compensation for loss of rent for the month of March 2019.

The Landlord also testified that the rental unit required cleaning and repair after the tenancy ended. In the application before me the Landlord failed to make a claim for such associated costs as the tenancy was ongoing at the time she applied.

Analysis

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

I find that the Tenants were obligated to pay rent in the amount of \$2,250.00 per month. I accept the Landlord's testimony that the Tenants failed to pay rent as required.

I find that the Tenants were served with the Notice on February 17, 2019. The Notice indicated that the sum of \$7,000.00 was due at that time.

As noted, the Landlord also claimed the sum of \$7,000.00 when she filed her Application, and included this sum on the Direct Request Monetary Worksheet.

During the hearing the Landlord stated that the Tenant failed to pay the full amount of rent for October 2018 and failed to pay any rent for November 2018; this is inconsistent with the documentary submissions made by the Landlord wherein she wrote that the Tenant paid the October rent and only made a partial payment in November.

I find it likely that the Landlord misspoke during the hearing based on the fact that all of her documentary submissions reference the \$7,000.00 figure and indicate the Tenant paid rent for October 2018, and only made a partial payment for November 2018.

I therefore award the Landlord monetary compensation for the balance of the November 2018 rent as well as unpaid rent for December 2018, January 2019 and February 2019 as claimed on her documentary submissions. I grant the Landlord leave to reapply for the October 2018 rent and the balance of the November 2018 rent should my findings with respect to those months be incorrect.

I accept the Landlord's evidence that the Tenant moved from the rental unit March 18, 2019 such that the Landlord was not able to re-rent the rental unit until April 2019. I therefore award her monetary compensation for April 2019 as well.

As the tenancy was ongoing at the time the Landlord applied for dispute resolution, the Landlord was unaware of the cost to repair and clean the rental unit. I therefore grant her leave to reapply for monetary compensation for the cost to repair and clean the rental unit.

As the Landlord has been successful in her Application I grant her recovery of the filing fee.

Conclusion

The Landlord is entitled to monetary compensation from the Tenants in the amount of \$9,350.00 for the following:

Balance of November 2018 rent	\$250.00
Unpaid rent for December 2018	\$2,250.00
Unpaid rent for January 2019	\$2,250.00
Unpaid rent for February 2019	\$2,250.00
Loss of rent for March 2019	\$2,250.00
Filing fee	\$100.00
TOTAL AWARDED	\$9,350.00

Pursuant to sections 38 and 72 of the *Act*, I authorize the Landlord to retain the Tenants' \$1,125.00 security deposit towards the amounts awarded and I grant the Landlord a Monetary Order for the balance due in the amount of **\$8,225.00**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

The Landlord is at liberty to reapply for unpaid rent for October 2018, further compensation for November 2018 (as applicable) as well as compensation for the cost to clean and repair the rental unit.

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: June 5, 2019

Residential Tenancy Branch



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