



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BALFOUR PROPERTIES LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to obtain an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

This proceeding began as a Direct Request Proceeding and was adjourned to a participatory hearing based on an Interim Decision dated May 22, 2019. The Interim Decision should be read in conjunction with this decision.

On July 5, 2019, an agent for the landlord AB ("agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding ("Notice of Hearing"), application and documentary evidence were considered. According to the registered mail documents and the Proof of Service submitted in evidence, the Notice of Hearing, application and documentary evidence were served on tenant by registered mail on May 17, 2019, which is supported by the Canada Post registered mail customer receipt submitted in evidence. Based on the above, I find the tenant was deemed served with the Notice of Hearing, application and documentary evidence five days after the registered mail was sent in accordance with section 90 of the *Act*. Therefore, I find the tenant is deemed served on May 22, 2019. Regarding the Interim Decision, the landlord affirmed that he served the Interim Decision as well and provided a registered mail tracking number, which has been included on the cover page of this decision for ease of reference. According to the

online tracking information the Interim Decision was mailed on May 24, 2019 and was signed for and accepted by the tenant on May 27, 2019. As I am satisfied on service by the landlord on the tenant, I find that this application is undisputed and unopposed by the tenant. Consequently, the hearing proceeded without the tenant present.

Preliminary and Procedural Matters

Firstly, the agent testified that the tenant vacated the rental unit on or about June 30, 2019, before the participatory hearing. As a result, the agent confirmed that the landlord is no longer seeking an order of possession as the tenant has returned possession of the rental unit to the landlord. The landlord stated that the tenant failed to pay June 2019, rent and as a result, is seeking the \$1,822.00 for June 2019. This amendment was permitted pursuant to section 64(3) of the *Act* as I find the tenant would know or ought to have known that the landlord would be seeking any loss of rent or unpaid rent between the date of the Interim Decision and the participatory hearing.

The agent confirmed their email address and the email of the tenant at the outset of the hearing. The agent was advised that both parties would be emailed the decision. The landlord will be emailed any resulting monetary order for service on the other party. The agent confirmed that as the tenant has not yet served the landlord with their written forwarding address, the landlord is not seeking to offset any monetary claim with the tenant's security deposit.

Issues to be Decided

- Is the landlord entitled to a monetary order for unpaid rent or utilities, and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on May 1, 2011. The agent testified that current monthly rent by the end of the tenancy was \$1,822.00 and due on the first day of each month. As noted above, the agent testified that the tenant failed to pay any rent for the month of June 2019. As a result, the landlord is seeking \$1,822.00 for unpaid June 2019 rent and is seeking the recovery of the cost of the filing fee.

Analysis

Based on the undisputed documentary evidence and undisputed testimony provided by the agent during the hearing, and on the balance of probabilities, I find the following.

Claim for unpaid rent – I accept the agent's undisputed testimony and find that the tenant failed to pay June 2019 rent in the amount of \$1,822.00. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find the landlord has met the burden of proof and has established a monetary claim of **\$1,822.00** as claimed for unpaid June 2019 rent.

As the landlord has succeeded with their application, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*.

I find the landlord has established a total monetary claim of \$1,922.00, comprised of \$1,822.00 in unpaid rent plus the \$100.00 filing fee. I grant the landlord a monetary order for the amount owing by the tenant to the landlord in the amount of **\$1,922.00** pursuant to section 67 of the *Act*.

Conclusion

The landlord's application is successful.

The landlord has established a total monetary claim of \$1,922.00 as indicated above. The landlord is granted a monetary order under section 67 of the *Act* owing by the tenant to the landlord in the amount of \$1,922.00. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The decision will be emailed to the parties. The monetary order will email to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 5, 2019

Residential Tenancy Branch