



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant. The Landlord was affirmed to be truthful in her testimony and stated that the Tenant was served with the Notice of Dispute Resolution Proceeding package and a copy of their evidence by registered mail. The registered mail tracking number and delivery progress information was provided in the Landlord’s evidence. The information provided shows that the package was mailed on May 10, 2019 and a notice card left on May 14, 2019. The registered mail tracking number is included on the front page of this decision.

The Landlord testified that the Tenant did not provide a new address, but they obtained the Tenant’s current address through the Ministry of social development. An email was included in the Landlord’s evidence dated March 11, 2019 in which they inquire as to the Tenant’s current address and received a response with the address where the package was sent. Based on this information, I am satisfied that the package was sent to the Tenant’s current address.

The tracking information provided by the Landlord shows that the package was unclaimed and returned to the sender on June 3, 2019. Despite not claiming the mail, I find that the Tenant was served in accordance with Sections 88 and 89 of the *Act*. I also note that failure to claim mail is not a ground for review under the *Act*.

Issues to be Decided

Is the Landlord entitled to monetary compensation?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy which was confirmed by copies of tenancy agreements submitted into evidence. The tenancy began on May 30, 2016 and ended on March 23, 2019. Monthly rent was \$320.00, and no security deposit was paid.

The Landlord stated that they served the Tenant with a One Month Notice and had a previous dispute resolution proceeding in which they were granted a two-day Order of Possession dated March 1, 2018. A copy of the One Month Notice was submitted into evidence dated November 27, 2017. The Landlord also submitted a copy of the decision as well as the Order of Possession and Monetary Order, all dated March 1, 2018.

The Landlord stated that the Order of Possession was served to the Tenant on March 2, 2018. However, as the Tenant did not move out, the Landlord applied for a Writ of Possession on March 8, 2018. The Landlord submitted a copy of the Writ of Possession dated March 20, 2018.

The Landlord is seeking compensation for the cost of applying for the Writ of Possession in the amount of \$120.00. They submitted into evidence a receipt from the law courts dated March 8, 2018 showing a payment in the amount of \$120.00.

The Landlord has also claimed the cost of the bailiff services to move the Tenant from the rental unit in the amount of \$1,355.60. They submitted a copy of a payment requisition dated March 7, 2018 showing a payment of \$2,500.00. The Landlord testified that this was the amount required for a deposit and that an amount of \$1,144.40 was returned following the service. They submitted a document which shows the return of an amount of \$1,144.40 dated April 9, 2018.

The Landlord also submitted a copy of a letter to the Tenant dated March 12, 2019 in which they ask the Tenant for reimbursement of the charges. The Landlord testified that they have not received any amount from the Tenant towards compensation owed.

Analysis

As the Landlord has applied for compensation, I refer to Section 7 of the *Act* which states the following:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

The Landlord provided testimony regarding the circumstances that led to their application for a Writ of Possession and contracting of bailiff services. I accept the testimony of the Landlord as well as the evidence before me that establishes that the Tenant was served with a One Month Notice, and that an Order of Possession was granted on March 1, 2018. As the Tenant did not move out after service of the Order of Possession, I find it reasonable that the Landlord took steps to enforce the Order.

I also find that the costs incurred by the Landlord were a direct result of the Tenant's breach of the Order granted on March 1, 2018. Therefore, I find that the Landlord is entitled to compensation for the costs incurred from enforcing the Order of Possession that could have been avoided had the Tenant followed the Order.

I am also satisfied as to the amounts owed as established by the Landlord's documentary evidence. Accordingly, I award the Landlord \$120.00 for the Writ of Possession fee and \$1,355.60 for bailiff services.

As the Landlord was successful with their application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00. Therefore, the Landlord is awarded a Monetary Order in the amount of \$1,575.60.

Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$1,575.60** as outlined above. The Landlord is provided with this Order in the

above terms and 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: August 14, 2019

Residential Tenancy Branch