



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Landlord:	OPR MNR FF
	Tenant:	CNR MT

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on June 13, 2019 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Tenant’s Application for Dispute Resolution was made on June 12, 2019 (the “Tenant’s Application”). The Tenant applied for the following relief, pursuant to the *Act*:

- an order cancelling a notice to end tenancy for unpaid rent or utilities;
- an order granting more time to make an application for dispute resolution.

The Landlord attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing. Accordingly, the Tenant’s Application is dismissed, without leave to reapply.

The Landlord testified the Landlord's Application package was served on the Tenant by registered mail on June 24, 2019. The Landlord submitted Canada Post tracking information in support. Although the Landlord advised that the Landlord's Application package was returned to her, sections 89 and 90 of the *Act* confirm that documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Tenant is deemed to have received the Landlord's Application package on June 29, 2019.

The Landlord was provided with 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord confirmed during the hearing that the Tenant vacated the rental unit on or about July 13, 2019, and that an order of possession is no longer required. Therefore, this aspect of the Landlord's Application has not been considered further.

Issues

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The Landlord testified the month-to-month tenancy began on May 1, 2019, although the Tenant was permitted to move in a few days early. As noted above, the Tenant vacated the rental unit on or about July 13, 2019. During the tenancy, rent in the amount of \$1,850.00 per month was due on the first day of each month. Although required by the tenancy agreement, the Tenant did not pay a security deposit.

The Landlord testified the only payments made by the Tenant were for \$1,800.00 and \$1,200.00 on May 22 and 24, 2019, respectively. The Tenant remained in the rental unit until July 13, 2019. Therefore, the Landlord confirmed her request to recover unpaid rent in the amount of \$2,550.00 for the period from May 1 to July 31, 2019 (\$5,550.00 - \$3,000.00). The Landlord testified she has re-rented the unit effective August 1, 2019.

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

Analysis

Based on unchallenged evidence and testimony, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when due under a 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 a portion of the rent.

In this case, I find the Tenant did not pay rent in full when due during the tenancy and that \$2,550.00 remains outstanding. There is no evidence before me to conclude the Tenant had any right under the *Act* to deduct a portion of rent. Therefore, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,650.00, which is comprised of \$2,550.00 for unpaid rent and \$100.00 in recovery of the filing fee paid to make the Application.

Conclusion

The Tenant's Application is dismissed, without leave to reapply.

The Landlord is granted a monetary order in the amount of \$2,650.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

Due to an apparent misunderstanding during communications with a representative of the Residential Tenancy Branch, an Amendment to an Application for Dispute Resolution, dated June 21, 2019 (the "Amendment"), was not properly processed. The Amendment purported to add monetary claims for future rent, outstanding utilities, and cleaning costs. As rent has been fully addressed in this decision, I grant the Landlord leave to reapply for outstanding utilities and cleaning costs, at her discretion.

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 2, 2019

Residential Tenancy Branch