



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORNERSTONE PROPERTIES
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on July 22, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The Landlord was represented at the hearing by R.S., an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, R.S. testified the Notice of Dispute Resolution Hearing and documentary evidence were served on the Tenant in person on July 25, 2019. A Proof of Service document confirming service in this manner was witnessed by G.L. was submitted in support. In the absence of evidence to the contrary, I find the above documents were served on and received by the Tenant on July 25, 2019.

R.S. was given 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

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

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirms the tenancy began on September 1, 2018. R.S. testified that the Tenant vacated the rental unit without notifying the Landlord in early August 2019, and advised that an order of possession is no longer required. Rent in the amount of \$1,500.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$750.00, which the Landlord holds.

R.S. testified the Tenant did not pay rent when due on July 1, 2019. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 11, 2019 (the "10 Day Notice"). R.S. confirmed that, at that time, rent and a late payment fee totalling \$1,525.00 were outstanding. The 10 Day Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on July 11, 2019. A Proof of Service document confirming service in this manner was witnessed by G.L. was submitted into evidence. A copy of the 10 Day Notice was also submitted into evidence.

Although outstanding rent that was due on July 1, 2019, was subsequently paid by the Tenant, R.S. testified rent was not paid when due on August 1, 2019. As noted above, the Tenant no longer occupies the rental unit.

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

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the *Act* confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

[Reproduced as written.]

I find the Landlord has established an entitlement to unpaid rent in the amount of \$1,500.00, which became due on August 1, 2019. Having been successful, the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application.

The Application includes a claim for late payment fees. Section 7 of the *Residential Tenancy Regulation* confirms a landlord may charge “an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent”, but that the fee must be provided for in the tenancy agreement. Having reviewed the tenancy agreement submitted into evidence, I find it does not provide for the payment of a late fee. Therefore, decline to grant the Landlord the late payment fees for July and August 2019 as requested.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$1,600.00, which is comprised of \$1,500.00 in unpaid rent and \$100.00 in recovery of the filing fee.

In light of the testimony of R.S. confirming the Tenant vacated the rental unit earlier this month, it has not been necessary for me to consider the Landlord's request for an order of possession.

Conclusion

The Landlord is granted a monetary order in the amount of \$1,600.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 29, 2019

Residential Tenancy Branch