



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC ASSET MANAGEMENT
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL OPRM-DR

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenants for the cost of the application. The landlord had applied by way of the Direct Request process, which was adjourned to this participatory hearing.

The landlord was represented at the hearing by an agent who gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call. The landlord's agent testified that each of the 2 tenants was individually served with notice of this hearing (the Hearing Package) by registered mail on July 22, 2019 and has provided copies of Registered Domestic Customer Receipts and Canada Post cash register receipts bearing that date, and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlord's agent advised that the tenants have vacated the rental unit and the application for an Order of Possession is withdrawn.

Issue(s) to be Decided

The issue remaining to be decided is:

- Has the landlord established a monetary claim as against the tenants for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on June 1, 2019 and the tenants vacated the rental unit on August 1, 2019. Rent in the amount of \$1,200.00 per month was payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$600.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a complex, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that the tenants' rent cheque for July, 2019 was returned by the financial institution for insufficient funds, and on July 4, 2019 the landlord's agent served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit. A copy has been provided and it is dated July 4, 2019 and contains an effective date of vacancy of July 17, 2019 for unpaid rent in the amount of \$1,200.00 that was due on July 1, 2019. The tenants did not pay the rent and did not serve the landlord with an application disputing the Notice.

The tenants vacated the rental unit on August 1, 2019, and the landlord re-rented the following day.

The landlord claims \$1,200.00 for July, 2019 rent; \$35.00 for the N.S.F. fee; \$38.70 for loss of one day of rent on August 1, 2019; and recovery of the \$100.00 filing fee. A copy of the Tenant Ledger has also been provided for this hearing.

Analysis

I have reviewed the Tenant Ledger, and I accept the undisputed testimony of the landlord's agent that the tenants did not pay any rent for the month of July, 2019 and the landlord has established the \$1,200.00 claim. I also accept the undisputed testimony of the landlord's agent that the tenants did not vacate the rental unit until August 1, 2019 and the overholding claim of \$38.70 has been established.

With respect to the \$35.00 claim for the N.S.F. fee, the regulations to the *Residential Tenancy Act* specify that a landlord may claim the amount charged by a financial institution and may claim \$25.00 for late payment of rent if the tenancy agreement provides for that non-refundable fee. I have reviewed the tenancy agreement, which contains a clause requiring a \$35.00 fee for late payments of rent and returned

cheques. Since that clause appears in the tenancy agreement, I find that the landlord has established a claim of \$25.00.

Since the landlord has been partially successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,363.70.

This order is final and binding and may be enforced.

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: September 19, 2019

Residential Tenancy Branch