



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEKINOW NATIVE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL
 CNR, MT

Introduction

This teleconference hearing was scheduled in response to applications by both parties under the *Residential Tenancy Act* (the “Act”). The Landlord applied for an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), for monetary compensation for unpaid rent, and for the recovery of the filing fee paid for the Application for Dispute Resolution. The Landlord initially filed under the Direct Request Process which was adjourned to a participatory hearing. The Tenant applied to cancel the 10 Day Notice and for an extension of time to do so.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing while no one called in for the Tenant during the approximately 18 minutes that the teleconference line was monitored. The Landlord was affirmed to be truthful in her testimony and stated that the Tenant was served with the hearing documents and evidence by registered mail. The Landlord was unsure of the exact dates that the hearing documents and stated that it was likely July 23, 2019 when the hearing documents were mailed to the Tenant. However, as the Tenant also filed an application which was joined to be heard together with the Landlord’s application, I find that the Tenant was aware of the date and time for the hearing through the Notice of Dispute Resolution Proceeding provided to the Tenant regarding the Tenant’s application.

The Landlord stated that she did not receive any documentation from the Tenant regarding the Tenant’s Application for Dispute Resolution. As such, in the absence of the Tenant and without proof that the Landlord was served with the Notice of Dispute Resolution Proceeding package regarding the Tenant’s application, the Tenant’s Application for Dispute Resolution is dismissed, without leave to reapply. This decision will address the Landlord’s application only.

I have considered all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matters

The Landlord confirmed at the hearing that they are no longer seeking an Order of Possession on the 10 Day Notice dated July 2, 2019. She confirmed that they are still seeking compensation for unpaid rent and for the recovery of the filing fee. As such, I find that the 10 Day Notice dated July 2, 2019 has been withdrawn and is therefore of no force or effect. Pursuant to Section 64(3)(c) of the *Act*, I amend the application to remove the Landlord's claim for an Order of Possession.

Issues to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent?

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. A tenancy agreement was submitted into evidence between the Landlord and original tenant, starting on March 1, 2016. However, the Landlord stated that the original tenant, who is a family member of the current tenant, moved out and the current tenant took over the tenancy through a verbal agreement around June 1, 2017. Rent in the amount of \$1,083.00 is due on the first day of each month. The Landlord stated that the original tenant paid a security deposit of \$500.00 at the start of the tenancy.

The Landlord testified that they served the Tenant with a 10 Day Notice on July 2, 2019 by posting the notice on the Tenant's door. A copy of the 10 Day Notice was submitted into evidence and states that \$6,498.87 was unpaid as due on July 1, 2019. The Landlord also submitted a breakdown of outstanding rent which dates back to February 1, 2019. However, the Landlord stated that the Tenant has since made great efforts to pay the outstanding rent and noted that the Tenant now owes \$1,000.00 for unpaid rent as well as \$25.00 for an NSF fee and \$195.00 for the cost of bedbug treatment. Therefore, the Landlord stated that they are seeking a Monetary Order in the amount of

\$1,220.00. The Landlord stated that they withdrew the 10 Day Notice due to the Tenant's efforts to pay the outstanding rent.

Analysis

As stated in Section 26 of the *Act*, a tenant must pay rent when due as per the tenancy agreement. I accept the testimony of the Landlord that the Tenant took over the original tenancy through a verbal agreement and that \$1,083.00 in rent is due on the first day of each month. I also accept the Landlord's testimony that although an amount of \$6,498.87 was owing as of July 2, 2019 that outstanding rent in the amount of \$1,000.00 is now owing. As such, I find that the Tenant must compensate the Landlord for the unpaid rent and therefore order the Tenant to pay \$1,000.00 to the Landlord.

Although the Landlord requested an amount of \$1,220.00, I find that the Landlord did not apply for compensation other than for unpaid rent and therefore I decline to award the cost of bedbug treatment as I find that to be outside of the claims on the application. Regarding the \$25.00 NSF fee, I do not find sufficient evidence from the Landlord regarding this charge such as documentation from the bank showing the charge. As such, I only award the Landlord the amount stated as the unpaid rent.

Although the Landlord withdrew the 10 Day Notice and is not seeking an Order of Possession at this time, I caution the Tenant regarding future rent payments. Should rent not be paid on time and in full as per the tenancy agreement and as required by the *Act*, the Landlord may find cause to serve a new notice to end tenancy.

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

Conclusion

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

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$1,100.00** for unpaid rent and for the recovery of the filing fee paid for the application. 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: September 25, 2019

Residential Tenancy Branch