



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LANDLORD: OPR, MNR, FF
TENANT: CNR, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession, a monetary order for unpaid rent, to retain the security deposit and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy and to recover the filing fee.

At the start of the hearing the Landlord said the Tenant abandoned the rental unit on August 31, 2019 leaving his belongings and the Tenant did not provide a forwarding address. The Landlord said she believed the Tenant left the country. As such the Landlord said she was unable to service the Tenant her application.

As the Tenant did not attend the hearing but he made an application to cancel the 10 Day Notice to End Tenancy, the Tenant was award of the hearing. I accept the Landlord made her best efforts to service the Tenant the Landlord's application; therefore I will accept hearing the Landlord's application.

Further as the Tenant failed to attend the hearing set for 11:00 am by 11:10 a.m.

Residential Tenancy Branch Rules of Procedure, section 10.1, provides:

10.1 Commencement of the dispute resolution proceeding

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of an appearance by the Tenant by 11:10 a.m., the Tenant's application is abandoned and dismissed without leave to reapply.

Further the Landlord said she has possession of the unit so she is withdrawing her request for an Order of Possession, but the Landlord is still requesting a monetary order for unpaid rent, to retain the security deposit and to recover the filing fee.

Issues to be Decided

Landlord:

1. Is there unpaid rent and if so how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to retain the Tenant's security deposit?

Background and Evidence

This tenancy started on December 1, 2013 as a fixed term tenancy with an expiry date of May 31, 2014 and then continued on a month to month basis. Rent is \$1,106.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$487.50 at the start of the tenancy.

The Landlord said the Tenant did not pay the August 2019 rent when it was due therefore the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent dated August 6, 2019 that was posted on the Tenant's door on August 6, 2019. The Landlord said she is requesting the unpaid rent in the amount of \$1,106.00, to retain the security deposit of \$487.50 as partial payment of the unpaid rent and to recover the filing fee of \$100.00.

Analysis

Section 26 (1) of the Act says 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

I find that the Tenant has not paid the overdue rent and the Tenant does not have the right to withhold a part or all of the unpaid rent. Consequently, I accept the Landlord's testimony and evidence that there is unpaid rent in the amount of \$1,106.00 for August 2019. I find for the Landlord and award the Landlord a monetary claim for unpaid rent of \$1,106.00. As well since the Landlord has been successful in this matter I also order the Landlord retain the Tenant's security deposit as partial payment of the unpaid rent and to recover the filing fee of \$100.00 for this proceeding from the Tenant. A Monetary Order in the amount of the following is awarded to the Landlord.

	Unpaid rent	\$1,106.00	
	Filing fee	\$ 100.00	
	Subtotal		\$1,206.00
Less	Security deposit	\$ 487.50	
	Subtotal		\$ 487.50
	Amount owing		\$ 718.50

Conclusion

A Monetary Order in the amount of \$718.50 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenant's application is dismissed without leave to reapply and the Tenant is ordered to bear the cost of \$100.00 for his application which he has already paid.

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: October 07, 2019

Residential Tenancy Branch