



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD: OPR, MNR, MNSD, FF
TENANTS: CNR, LAT, LRE, OLC

Introduction

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

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 Tenants filed to obtain an order to cancel the Notice to End Tenancy and if successful; to change the locks on the rental unit, set conditions for the Landlord's right of entry and for the Landlord to comply with the Act, regulations and tenancy agreement.

Service of the hearing documents by the Landlord to the Tenants were done by personal delivery on August 11, 2019 in accordance with section 89 of the Act.

At the start of the hearing the Landlord said the Tenants abandoned the rental unit on September 3, 2019 and the Tenants did not provide a forwarding address.

As the Tenants received the Landlord's hearing package and the Tenants made an application to cancel the 10 Day Notice to End Tenancy, the Tenants were award of the hearing.

Further as the Tenant failed to attend the hearing set for 11:00 am by 11:20 a.m. the end of the hearing.

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 Tenants, the Tenants' application is abandoned and dismissed without leave to reapply.

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

Issues to be Decided

Landlord:

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

Background and Evidence

This tenancy started on August 1, 2014 as a fixed term tenancy for one year and then continued on a month to month basis. Rent was \$1,000.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$500.00 at the start of the tenancy.

The Landlord said the Tenants did not pay the full rent starting in January 1, 2016 and then continuing until the Tenants moved out on September 3, 2019. The Landlord said the Tenants have unpaid rent of \$5,650.00 for 2016, \$6,250.00 for 2017, \$7,900.00 for 2018 and 6,900.00 for 2019. The Landlord submitted the rent payment ledger for the full tenancy and gave affirmed testimony that the ledger was supported by bank statements. In addition the Landlord said the Tenants have unpaid utility bills of \$139.29 which the Landlord has paid and is requesting to recover. The Landlord said his total claim for unpaid rent and utilities is \$26,839.29. The Landlord continued to say they gave the Tenants many warnings about the unpaid rent but the Tenants gave the Landlord promises to pay the unpaid rent and the Landlord said he was too lenient with

the Tenants as the Tenants were a young family and he wanted to help them. The Landlord said he issued the 10 Day Notice to End Tenancy when he found out the Tenants had money but were not paying him. The Landlord said he was too lenient and he would not do this again.

The Landlord requested to retain the Tenants' security deposit of \$500.00 as partial payment of the unpaid rent and utilities and also 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 from the undisputed testimony and submitted evidence of the Landlord that the Tenants have not paid the overdue rent and utilities and the Tenants do 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 and utilities in the amount of \$26,839.29 for the time period of January 1, 2016 to September 3, 2019. I find for the Landlord and award the Landlord a monetary claim for unpaid rent and utilities of \$26,839.29. As well since the Landlord has been successful in this matter I also order the Landlord to 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 as follows is awarded to the Landlord.

	Unpaid rent	\$26,839.29	
	Filing fee	\$ 100.00	
	Subtotal		\$26,939.29
Less	Security deposit	\$ 500.00	
	Subtotal		\$ 500.00
	Amount owing		\$26,439.29

Conclusion

A Monetary Order in the amount of \$26,439.29 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Tenants' application is dismissed without leave to reapply.

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 08, 2019

Residential Tenancy Branch