



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on September 5, 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 attended the hearing and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord testified the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail. Canada Post tracking information provided by the Landlord confirmed delivery of the package on September 20, 2019. I find the above documents were received by the Tenant on that date.

Although not submitted with the Landlord's documentary evidence, the Landlord was given the opportunity to submit a copy of the notice to end tenancy for unpaid rent or utilities by 3:00 p.m. on October 8, 2019. The Landlord submitted 2 proof of service documents (4 pages) but did not submit a notice to end tenancy for unpaid rent or utilities. Section 52(e) confirms that a landlord's notice to end tenancy must be in writing and must be in the approved form to be effective. The language in the *Act* is mandatory. As the Landlord has not provided a notice to end tenancy in the approved form, I find the Landlord's request for an order of possession is dismissed, with leave to reapply.

The Landlord 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 a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The Landlord testified the month-to-month tenancy began on July 1, 2019. Rent in the amount of \$600.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00, which the Landlord holds. A copy of the signed tenancy agreement between the parties was submitted into evidence.

The Landlord testified the Tenant did not pay rent when due on July 1, August 1, September 1, and October 1, 2019, and that rent in the amount of \$2,400.00 is currently outstanding. The Landlord testified that no partial payments have been made by the Tenant and that the Tenant continues to occupy the rental unit.

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

Analysis

Based on the unchallenged and 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 Tenant did not pay rent when due. Therefore, the Landlord has established an entitlement to unpaid rent in the amount of \$2,400.00 (\$600.00 x 4 months). Having been successful, the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application. I also find it is appropriate in the circumstances to order that the Landlord is authorized to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,200.00, which has been calculated as follows:

Claim	Allowed
Unpaid rent:	\$2,400.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$300.00)
TOTAL:	\$2,200.00

Conclusion

The Landlord is granted a monetary order in the amount of \$2,200.00. 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: October 9, 2019

Residential Tenancy Branch