



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK
LTD and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>	Landlord:	OPR MNR FF
	Tenant:	CNR

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on October 24, 2019 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 10, 2019 (the “10 Day Notice”);
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

However, on behalf of the Landlord, B.B. testified that the Landlord no longer owns the property and wishes to withdraw the request for an order of possession. I grant the Landlord’s request.

The Tenant’s Application for Dispute Resolution was made on September 13, 2019 (the “Tenant’s Application”). The Tenant applied for an order cancelling the 10 Day Notice, pursuant to the *Act*.

The Landlord was represented at the hearing by B.B., an agent. The Tenant did not attend the hearing. Therefore, the Tenant’s Application is dismissed without leave to reapply. It has not been considered further in this Decision.

On behalf of the Landlord, B.B. testified the Landlord's Application package was served on the Tenant by registered mail on November 8, 2019. Canada Post registered mail documents were submitted in support. Sections 89 and 90 of the *Act* confirm that documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Tenant is deemed to have received the Landlord's Application package on November 13, 2019.

B.B. was provided with 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

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

On behalf of the Landlord, B.B. confirmed the tenancy began on September 1, 2017. At all material times, rent in the amount of \$1,246.00 per month was due on the first day of each month. The Tenant paid a security deposit in the amount of \$600.00, which the Landlord holds. B.B. testified that the property has been sold, and that the Landlord was no longer tasked with the collection of rent after September 30, 2019.

B.B. testified the Tenant did not pay rent when due on September 1, 2019. At that time, rent in the amount of \$1,246.00 remains outstanding.

The Landlord also sought to recover the \$100.00 filing fee paid to make the Application, and B.B. requested that the security deposit held be applied in partial satisfaction of the claim.

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

Analysis

Based on all of the above, the evidence and unchallenged testimony, and on a balance of probabilities, I find as follows.

Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

In this case, I find the Tenant did not pay rent when due on September 1, 2019 and that \$1,246.00 remains outstanding. I find there is insufficient evidence before me to conclude the Tenant had a right under the *Act* to deduct all or a portion of rent. Therefore, I find the Landlord is entitled to a monetary order for unpaid rent in the amount of \$1,246.00. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Landlord's Application. I also find it appropriate in the circumstances to order that the Landlord may retain the security deposit held in partial satisfaction of the Landlord's claim.

Pursuant to section 67 of the *Act*, the Landlord is granted a monetary order in the amount of \$746.00, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$1,246.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$600.00)
TOTAL:	\$746.00

Conclusion

The Tenant's Application is dismissed without leave to reapply.

The Landlord is granted a monetary order in the amount of \$746.00. 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: November 28, 2019

Residential Tenancy Branch