



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR, OLC, MNDCT, FFT
For the landlord: OPRM-DR, FFT

Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (the “Act”).

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlords, for an order requiring the landlords to comply with the Act, for a monetary order for compensation or loss, and for recovery of the filing fee paid for this application.

The landlords applied for an order of possession of the rental unit due to unpaid rent pursuant to the Notice, a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlords attended the hearing; the tenant did not attend.

The landlord SLS stated that she served the tenant their application for dispute resolution and notice of hearing letter by personal delivery on September 25, 2019, at 4:00 p.m.

Based upon the landlords’ submissions, I accept the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act, and the hearing proceeded on the landlords’ application in the tenant’s absence.

Thereafter the landlord SLS was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Procedural matter-In the absence of the tenant to present his claim, pursuant to section 7.3 of the Rules, I dismiss the application of the tenant, without leave to reapply.

Procedural matter #2-The landlord submitted that the tenant vacated the rental unit on September 30, 2019. Pursuant to section 64(3)(c) of the Act, I amend the landlords' application removing their request for an order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and for recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted that the tenancy began in October 2015, that monthly rent was \$1,050.00, which included a fee of \$100.00 for use of the garage for storage space, and that the tenant has not paid a security deposit.

The landlord submitted that they served the tenant with the Notice on September 3, 2019, by posting it to the tenant's door. The Notice listed unpaid rent of \$1,050.00 and an effective move-out date of September 13, 2019.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within 5 days. The Notice also explained that alternatively the tenant had 5 days to dispute the Notice by making an application for dispute resolution. In this case, the tenant did file an application to dispute the Notice.

The landlord asserted that since the issuance of the Notice, the tenant did not pay the rent owed prior to vacating on September 30, 2019.

The landlords' monetary claim listed on his application is \$1,050.00, the unpaid rent for September 2019.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. When a tenant fails to comply with their obligation under the Act and tenancy agreement, a landlord may serve a tenant a notice seeking an end to the tenancy, pursuant to section 46(1) of the Act, as was the case here.

Based upon the landlords' undisputed evidence, I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, that he owed the amount listed on the Notice as unpaid rent, and that he failed to pay this rent prior to vacating.

I find the landlord submitted sufficient evidence to prove that the tenant failed to pay his monthly rent obligation of \$1,050.00 for September 2019, and that the landlord is entitled to a monetary award for that unpaid rent, in the amount of \$1,050.00.

I also award the landlords recovery of their filing fee of \$100.00, pursuant to section 72(1) of the Act.

I therefore find that the landlords are entitled to a total monetary award of \$1,150.00, comprised of unpaid rent of \$1,050.00 for September 2019 and the \$100.00 filing fee paid by the landlords for their application.

I grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act for the amount of their monetary award, in the amount of \$1,150.00, which is attached to the landlords' Decision. To be enforceable, the monetary order must be served upon the tenant in any way recognized under section 88 of the Act.

Should the tenant fail to pay the landlords this amount without delay after the order has been served upon him, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords' application for a monetary order for unpaid rent and for recovery of the filing fee paid for this application has been granted.

The tenant's application is dismissed, without leave to reapply, as he failed to attend the hearing and as I have granted the landlords' application.

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 15, 2019

Residential Tenancy Branch