



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ECO-WORLD PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, CNR, FFT, FFL

Introduction

This hearing was convened in response cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, for a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Agent for the Landlord stated that on November 05, 2019 the Landlord's Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in October of 2019 were sent to the Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord cited a tracking number that corroborates this testimony. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however, the Tenant did not appear at the hearing.

As the aforementioned documents have been served to the Tenant, the hearing proceeded in her absence and the evidence was accepted as evidence for these proceedings.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Notice to End Tenancy for Unpaid Rent and to recover the fee for filing this Application for Dispute Resolution. The Agent for the Landlord stated that the Landlord has been served with the Tenant's Application for Dispute Resolution.

On November 27, 2019 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on November 27, 2019. In the absence of evidence to the contrary, I find that this evidence was served to the Tenant and it was accepted as evidence for these proceedings.

The Agent for the Landlord affirmed that she would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Preliminary Matter

The Agent for the Landlord applied to amend the Application for Dispute Resolution to include unpaid rent from November and December of 2019. I find that it was reasonable for the Tenant to conclude that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the application to amend the monetary claim to include all rent that is currently due.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent?

Background and Evidence

The Agent for the Landlord stated that:

- the Tenant lived in the rental unit prior to signing a new tenancy agreement;
- the Tenant signed a new tenancy agreement that began on February 01, 2019;
- as of May 01, 2019, the Tenant was required to pay monthly rent of \$1,845.00 by the first day of each month;
- on October 01, 2019 the Landlord attempted to withdraw \$1,845.00 from the Tenant's bank account for rent for October of 2019;
- the Tenant's financial institution refused the payment for October rent;
- sometime in October of 2019, \$1,845.00 was transferred from the Landlord's account to the Tenant's account by the Landlord's financial institution;
- sometime after October 10, 2019 the Tenant paid \$1,845.00 to the Landlord;
- the Landlord told the Tenant they considered the \$1,845.00 payment to be a reimbursement of the bank error;
- the Tenant told the Landlord she considered the \$1,845.00 payment to be her rent payment for October of 2019;
- the Tenant told the Landlord she would like to discuss a repayment plan for the \$1,845.00 deposit that was a bank error;

- on October 11, 2019 the Landlord mailed a Ten Day Notice to End Tenancy for Unpaid Rent to the Tenant;
- the Notice to End Tenancy declared that the rental unit must be vacated by October 22, 2019;
- the rental unit was vacated on December 03, 2019; and
- no rent was paid for November or December of 2019.

The Landlord is seeking a monetary Order for unpaid rent for October of 2019, November of 2019, and for the first 3 days of December of 2019.

Analysis

As the Tenant did not attend the hearing in support of her Application for Dispute Resolution, I find that she has failed to diligently pursue her Application for Dispute Resolution. The Tenant's Application for Dispute Resolution is, therefore, dismissed, without leave to reapply.

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,845.00 by the first day of each month, effective May 01, 2019.

Section 26(1) of the *Residential Tenancy Act (Act)* requires tenants to pay rent when it is due.

On the basis of the undisputed evidence, I find that sometime after October 10, 2019 the Tenant paid \$1,845.00 in rent to the Landlord. As the Tenant clearly informed the Landlord that this was a rent payment, I find that the Landlord must accept it as a rent payment. As the Tenant has paid rent for October of 2019, I dismiss the Landlord's application for unpaid rent for October.

On the basis of the undisputed evidence, I find that sometime in October of 2019 \$1,845.00 was transferred from the Landlord's account to the Tenant's account as a result of a banking error. I find that I do not have jurisdiction over banking errors and I therefore do not have authority to order the Tenant to repay the \$1,845.00 that was inadvertently transferred into her account.

On the basis of the undisputed evidence, I find that the Tenant occupied the rental unit for the entire month of November of 2019. I therefore find that she must pay the Landlord \$1,845.00 in rent for that month.

On the basis of the undisputed evidence, I find that the Tennant occupied the rental unit for three days in December of 2019. I therefore find that she must pay the Landlord per diem rent of \$178.56 for those three days.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

The Landlord has established a monetary claim, in the amount of \$2,123.56, which includes \$2,023.56 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for \$2,123.56. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 17, 2019

Residential Tenancy Branch