



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 25, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

Issues(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on February 2, 2018 as a month to month tenancy. Rent was \$750.00 per month and \$100.00 per month for hydro costs payable on the 1st day of each month. The Tenant paid a security deposit of \$750.00 at the start of the tenancy. Both Parties said the Tenant moved out on August 5, 2019. No move in condition inspection report was completed but a move out report was completed on August 5, 2019. The Tenant provided his forwarding address to the Landlord on the move out report on August 5, 2019

The Landlord said that the Tenant did not pay \$75.00 of rent for July 2019 and the Landlord lost the rental income of \$750.00 for August 2019, because the Tenant did not move out until August 5, 2019. The Landlord said she is claiming \$825.00 in unpaid

rent and she is requesting to recover the filing fee of \$100.00. The Landlord said her total claim is \$925.00.

The Tenant said he submitted rent receives for July in the amount of \$212.50 on July 2, 2019, \$212.50 on July 9, 2019 and \$450.00 on July 18, 2019. The Tenant said this totals \$850.00 which is what his monthly rent is. Further the Tenant said he believes that the Landlord delayed in hiring bailiffs to evict him so his over staying in August was the Landlord's responsibility. The Tenant said he does not think he has any unpaid rent for this tenancy.

The Landlord said she could not afford to hire bailiffs so she waited for the Tenant to move out. The effective vacancy date on the Order of Possession that the Landlord submitted into evidence is June 30, 2019.

The Tenant said he did not want to become homeless so he ignored the effective vacancy date on the Order of Possession.

The Landlord said in closing that she wants to recover the unpaid rent and filing fee and to retain the Tenant's security deposit.

The Tenant became very abusive to the Landlord at the end of the hearing and was cautioned to stop his abusive behaviour. Tenant continued to rant at the Landlord. The Arbitrator muted the Tenant's phone and then ended the hearing by disconnecting the parties.

Given the Tenant's behaviour, I encourage the Landlord to contact the Police when dealing with the Tenant in the future.

Analysis

Section 26 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.

Section 45 of the Act says

(1)A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a)is not earlier than one month after the date the landlord receives the notice, and

(b)is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The Tenant did not give the Landlord proper notice to end the tenancy and the Tenant do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent of \$750.00 and for hydro costs in the amount of \$100.00 /30days = \$3.33 for 5 days of August 2019 = \$16.67. Further I find the Tenant has proven that the July 2019 rent was paid in full. I award the Landlord \$766.67 in unpaid rent.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the unpaid rent. The Landlord will receive a monetary order for the balance owing as following:

	Unpaid Rent and Utilities	\$ 766.67
	Recover filing fee	\$ 100.00
	Subtotal:	\$ 866.67
Less:	Security Deposit	\$ 750.00
	Subtotal:	\$ 116.67
	Balance Owing	\$ 116.67

Conclusion

A Monetary Order in the amount of \$116.67 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: December 09, 2019

Residential Tenancy Branch