



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL MNRL OPR

Introduction

In this dispute, the landlord sought an order of possession for cause pursuant to sections 47 and 55 of the *Residential Tenancy Act* (the “Act”), compensation for unpaid rent pursuant to sections 26 and 67 of the Act, and, recovery of the filing fee pursuant to section 72 of the Act.

The landlord applied for dispute resolution on October 16, 2019 and a dispute resolution hearing was held on December 16, 2019. The landlord attended the hearing, and they were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenants did not attend. The landlord testified that the Notice of Dispute Resolution Proceeding was served on the tenants by being attached to the rental unit’s front on or shortly after October 16, 2019. I find that the tenants were served in accordance with the Act.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred but have only considered evidence relevant to the issues of this application.

Finally, the landlord testified that the tenants vacated the rental unit on November 7, 2019 and as such the landlord no longer requires an order of possession.

Issues

1. Is the landlord entitled to compensation for unpaid rent?
2. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy began in June 2019 and ended when the two tenants moved out on November 7, 2019. Monthly rent was \$1,000.00 and the tenants did not pay any security or pet damage deposit. (There was no written tenancy agreement submitted into evidence.)

On October 9, 2019, the landlord's mother (who appears to have acted as the landlord's agent in tenancy matters) served a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") – a copy of which was submitted into evidence – on the tenants by being attached to the door of the rental unit. The 10 Day Notice indicated that \$250.00 in rent arrears was owing for September and that \$1,000.00 was owing for October, for a total of \$1,250.00. The tenants did not dispute the 10 Day Notice.

The landlord seeks compensation equivalent to the amount owing plus on a pro rata basis for the seven days in November that the tenants resided in the rental unit. In addition, he seeks recovery of the application filing fee.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

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

Pursuant to section 46 of the Act, the Notice informed the tenants that the Notice would be cancelled if they paid rent within five days of service. The Notice also explains that the tenants had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution. The landlord testified, and provided documentary evidence to support their submission, that the tenants did neither.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving his claim for compensation. Section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A

successful party is generally entitled to recovery of the filing fee. As the landlord was successful, I grant his claim for reimbursement of the filing fee.

Based on the above, I find that the tenants owe the following amounts:

September 2019 partial unpaid rent	\$250.00
October 2019 unpaid rent	1,000.00
November 2019 unpaid rent (7 days)	233.33
Filing Fee	100.00
TOTAL	\$1,583.33

Conclusion

I hereby grant the landlord a monetary order in the amount of \$1,583.33, which must be served on the tenants. Should the tenants refuse to pay the landlord the above-noted amount, the order may be filed in, and enforced as an order of, the Provincial Court of British Columbia, Small Claims Division.

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 16, 2019

Residential Tenancy Branch