



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNDCL-S MNRL-S OPR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking the following relief:

- an Order of Possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and
- to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. The tenant also attended and gave affirmed testimony. The parties were given the opportunity to question each other.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

The hearing had been scheduled for an earlier date, however due to some technical issues, the parties agreed that no one for the Arbitrator attended, and the matter was rescheduled for today.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim for unpaid rent?

- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for fees related to the late payment of rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on June 1, 2019 and the tenant still resides in the rental unit. Rent in the amount of \$800.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is an apartment in a complex, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that the tenant did not pay rent when it was due in October, 2019 and the landlord caused the tenant to be served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit, and a copy has been provided for this hearing. It is dated October 7, 2019 and contains an effective date of vacancy of October 18, 2019 for unpaid rent in the amount of \$800.00 that was due on October 1, 2019.

The Addendum to the tenancy agreement provides for a service charge of \$25.00 for late payments, returned and non-sufficient fund cheques.

The landlord has also provided a copy of a Tenant Ledger which shows that there were no rental arrears as at September 30, 2019. Rent became due again on October 1, 2019, and on October 7, 2019 a late fee was applied to the tenant's account of \$25.00, bringing the arrears at that time to \$825.00, including the late fee. Since October, 2019, the tenant paid \$800.00 for November's rent on November 12, 2019 and another \$500.00 on November 27, 2019. The tenant paid \$1,100.00 on December 12, 2019 and December's rent was also overdue. Then January's rent became due, for which the tenant has paid \$100.00 on January 2, 2020, and the tenant is still in arrears the sum of \$800.00 including the \$25.00 late fee.

The tenant agrees that he's late with the rent, and has offered a payment schedule that will catch up on the arrears very soon, and will also pay in advance considering the money the tenant will receive.

The tenant did not dispute the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but believed that attending this hearing sufficed as his dispute. The tenant suffered a head injury and is the parent of a 6 year old child and cannot be on the street.

Analysis

The *Residential Tenancy Act* states that once served, or deemed served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent or dispute the Notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I accept the undisputed testimony of the landlord's agent that the landlord served the tenant with the Notice by posting it to the door of the rental unit on October 7, 2019, which is deemed to have been served 3 days later, or October 10, 2019. The tenant then had until October 15, 2019 to pay the rent in full or dispute the Notice.

Considering the amount of time that has passed since the landlord provided evidence, I have calculated the amount of rent and late fees owing to date from the landlord's Tenant Ledger and the testimony of the landlord's agent, which is not disputed by the tenant:

DATE	AMOUNT DUE	AMOUNT PAID	BALANCE
September 30, 2019			0.00
October 1, 2019	\$800.00		\$800.00
October 2, 2019	\$25.00		\$825.00
November 1, 2019	\$800.00		\$1,625.00
November 2, 2019	\$25.00		\$1,650.00
November 12, 2019		\$800.00	\$850.00
November 27, 2019		\$500.00	\$350.00
December 1, 2019	\$800.00		\$1,150.00
December 2, 2019	\$25.00		\$1,175.00
December 12, 2019		\$1,100.00	\$75.00
January 1, 2020	\$800.00		\$875.00
January 2, 2020	\$25.00	\$100.00	\$800.00

The tenant did not dispute the Notice, and was in arrears of rent the sum of \$825.00 on October 15, 2019. Had the tenant paid the rent by then, the Notice would have been of no effect. I have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent or

Utilities, and I find that it is in the approved form and contains information required by the *Act*. Since the tenant did not pay the rent or dispute the Notice, I find that the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

I also find that the landlord has established a monetary claim for unpaid rent and late fees totalling \$800.00. Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I order the landlord to keep the \$400.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord as against the tenant for the difference in the amount of \$500.00.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I order the landlord to keep the \$400.00 security deposit, and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$500.00.

This order is final and binding and may be enforced.

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: January 16, 2020

Residential Tenancy Branch