



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LCA Enterprises (Canada) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPRM-DR

Introduction

In this dispute, the landlord seeks compensation for unpaid rent, and for the filing fee, pursuant to sections 67 and 72 of the *Residential Tenancy Act* (the “Act”). The landlord obtained an order of possession of the rental unit on January 7, 2020, in another hearing, and as such this order is not sought in the present application.

The landlord applied for dispute resolution on December 17, 2019 and a dispute resolution hearing was held, by way of teleconference, on February 24, 2020 at 9:30 AM. The landlord’s agent attended the hearing, and they were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. A phone number associated with the tenants appeared on the hearing teleconference console but disconnected a minute before the hearing commenced and did not rejoin the hearing while in session. The hearing concluded at 9:37 AM.

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.

Issues

1. Is the landlord entitled to compensation pursuant to section 67 of the Act?
2. Is the landlord entitled to recovery of the filing fee pursuant to section 72?

Background and Evidence

The tenancy commenced on June 24, 2019, and monthly rent was \$2,300.00, due on the first of the month. The tenants paid a security deposit of \$1,150.00. A written tenancy agreement was submitted into evidence. The tenancy agreement indicated that a late fee of \$50.00 would be incurred by the tenants should they pay rent late.

In this dispute, the landlord testified that the tenants did not pay rent for November and December 2019. After indicating that they would move out, the tenants remained in the rental unit until January 11, 2020, after an order of possession was obtained by the landlord on January 7, 2020. The landlord attempted to find new tenants, and eventually did; the new tenants moved into the rental unit in mid-February 2020. Thus, the landlord also sought unpaid rent for the month of January 2020. In addition, they sought \$50.00 in late rent fees for each of the three months in question for a total of \$150.00.

The landlord acknowledged that the tenants had agreed to the landlord withholding the \$1,150.00 security deposit as partial payment toward rent arrears. Finally, the landlord inquired as to whether they could pursue compensation for damages to the rental unit; I indicated that this claim would need to be pursued by way of a separate application.

Evidence submitted in support of the landlord's application included a copy of the 10 Day Notice for Unpaid Rent, copies of post-dated cheques (which bounced on the above-noted months of November and December), a listing of the property on Craigslist, proof of service of the 10 Day Notice (the "Notice"), copies of "bounced" cheque transactions, and a Direct Request Worksheet.

Analysis

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 explained 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 not pay rent when it was due, and that they owe rent for November, December and January. They were also legally bound to pay a \$50.00 late fee for each of the three months that they did not pay rent. There is no evidence before me that the tenants had a right under the Act to not pay rent.

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 its claim for unpaid rent and late fees.

Finally, 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 its claim for reimbursement of the filing fee in the amount of \$100.00.

A total monetary award and order of \$6,000.00 for the landlord is calculated as follows:

CLAIM	AMOUNT
Unpaid rent (\$2,300.00 x 3)	\$6,900.00
Late Rent Fees (\$50.00 x 3)	150.00
Filing fee	\$100.00
LESS security deposit	(\$1,150.00)
Total:	\$6,000.00

Conclusion

The landlord's application is granted.

I grant the landlord a monetary order in the amount of \$6,000.00, which must be served on the tenants. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

This decision is made on authority delegated to me under s. 9.1(1) of the Act.

Dated: February 24, 2020

Residential Tenancy Branch