



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR, CNC, RP, RR, MT
 For the landlords: OPC, MNRL, FFL

Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (Act).

The tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause (One Month Notice) and a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), for an order requiring the landlord to make repairs to the rental unit, for an order reducing her monthly rent, and for authorization for more time to dispute the One Month Notice.

The landlord applied for an order of possession for the rental unit pursuant to the One Month Notice, a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord attended the hearing; the tenant did not attend.

The landlord submitted documentary and oral evidence that the tenant was served with his Application for Dispute Resolution and Notice of Hearing by registered mail. The landlord provided the Canada Post receipt showing the tracking number of the registered mail, which is located on the style of cause page of this Decision.

Based upon the landlord's oral and written submissions, I accept the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act, and the hearing proceeded on the landlord's application in the tenant's absence.

Thereafter the landlord was provided the opportunity to present his evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Procedural matter-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenant did not attend to present her evidence.

Therefore, pursuant to section 7.3 of the Rules, I dismiss the application of the tenant, without leave to reapply.

As another preliminary matter, the landlord said the tenant vacated the rental unit on or about February 12, 2020. Therefore, I have excluded the landlord's request for an order of possession of the rental unit, as the landlord confirmed it was no longer necessary.

The hearing proceeded on the landlord's request for a monetary order.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord said the tenancy began on November 10, 2019, for a monthly rent of \$950.00 due on the first day of the month. The landlord said the tenant paid a security deposit of \$475.00 and a pet damage deposit of \$100.00.

The evidence of both parties shows that the landlord served the tenant with the One Month Notice on November 30, 2019, for an effective date of January 1, 2020.

The evidence of both parties shows the landlord served the tenant with a 10 Day Notice on January 2, 2020, in person, listing unpaid rent of \$950.00 owed as of January 1, 2020. The effective vacancy date listed on the Notice was January 12, 2020. The Notice was submitted into evidence.

The tenant filed an amended application to dispute the Notice.

The landlord said that since the Notice was issued to the tenant, the tenant failed to pay any further rent prior to vacating on February 12, 2020.

The landlord seeks to increase his monetary claim of \$950.00 for unpaid rent for January 2020 to include the unpaid rent for February 2020, in the amount of \$950.00.

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. When a tenant fails to comply with their obligation under the Act and tenancy agreement, a landlord may serve a tenant a notice seeking an end to the tenancy, pursuant to section 46(1) of the Act, as was the case here.

The Notice informed the tenant that she had five days of receipt of the Notice to file an application for dispute resolution with the Residential Tenancy Branch ("RTB") to dispute the Notice or to pay the rent in full; otherwise the tenant is conclusively presumed to have accepted that the tenancy is ending and must move out of the rental unit by the effective move-out date listed on the Notice.

I find the landlord submitted sufficient and undisputed evidence to prove that the tenant was served a 10 Day Notice, that the tenant owed the unpaid rent listed and did not pay the outstanding rent within 5 days of service.

While the tenant filed an application for dispute resolution in dispute of the Notice, she did not attend the hearing to offer rebuttal evidence to prove the rent was paid.

I also find that the landlord submitted sufficient evidence to show that the tenant vacated the rental unit on, or about, February 12, 2020, owing unpaid rent for January and February 2020.

I find it reasonable to amend the landlord's monetary claim to include the unpaid monthly rent of \$950.00 for February 2020, due to the tenant's failure to comply with the 10 Day Notice.

I therefore find the landlord is entitled to a monetary award of \$2,000.00, comprised of unpaid rent of \$950.00.00 for January 2020, \$950.00 for February 2020, and the \$100.00 filing fee paid by the landlord for this application.

At the landlord's request at the hearing, I direct the landlord to retain the tenant's security deposit of \$475.00 and the pet damage deposit of \$100.00 in partial satisfaction of his monetary award of \$2,000.00.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1,425.00.

Should the tenant fail to pay the landlord this amount without delay, the order may be served on the tenant for enforcement purposes. The order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application is dismissed without leave to reapply as she failed to attend the hearing.

The landlord's application for a monetary order for unpaid rent and the filing fee has been granted.

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: February 21, 2020

Residential Tenancy Branch