



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vernon Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, OPRM-DR, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request that was made on February 19, 2020 and adjourned to a participatory hearing. This hearing was convened pursuant to the Landlord's Application seeking the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent;
- a monetary order for unpaid rent; and
- the return of the filing fee.

The hearing was scheduled for 11:00 AM on April 28, 2020 as a teleconference hearing. The Landlord's Agent appeared at the appointed date and time of the hearing and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only persons who had called into this teleconference.

The Landlord's Agent testified the Application and documentary evidence package was served to the Tenant by registered mail on February 28, 2020. Based on the oral and written submissions of the Landlord, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on March 4, 2020, the fifth day after the registered mailing.

The Landlord's Agent was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure.

However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Landlord's Agent stated that the tenancy ended on March 2, 2020 after the Tenant vacated the rental unit. As such, the Landlord's Agent stated that the Landlord is no longer seeking an order of possession in relation to the 10 Day Notice for unpaid rent. The hearing continued based on the Landlord's Application for a monetary order for unpaid rent.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on May 14, 2017. Near the end of the tenancy, rent in the amount of \$641.00 was due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$462.50, which the Landlord continues to hold. The tenancy ended on March 2, 2020.

The Landlord's Agent testified the Tenant did not pay rent when due in February 2020. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 5, 2020 (the "10 Day Notice") with an effective vacancy date of February 15, 2020. At that time, rent in the amount of \$641.00 was outstanding. The Landlord's Agent testified the 10 Day Notice was posted to the Tenant's door on February 5, 2020.

The Landlord's Agent stated that the Tenant did not pay any portion of the outstanding rent to the Landlord prior to vacating the rental unit on March 2, 2020. As such, the Landlord is seeking monetary compensation in the amount of \$641.00. If successful, the Landlord is also seeking the return of the filing fee. As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the uncontested affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the 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 46 of the Act states a Landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

The Landlord served the Tenant with the 10 Day Notice dated February 5, 2020 with an effective vacancy date of February 15, 2020 by posting it to the Tenant's door on February 5, 2020. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to be received 3 days later. I find the Tenant is deemed to have received the 10 Day Notice on February 8, 2020.

I accept the Landlord's Agent's undisputed testimony that after service of the 10 Day Notice, the Tenant has made no payments towards the amount of unpaid rent. As such, I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of \$641.00. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$278.50, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$641.00
Filing fee:	\$100.00
LESS security deposit:	-\$462.50)
TOTAL:	\$278.50

Conclusion

The Tenant has breached the *Act* by not paying rent when due to the Landlord. The Landlord is granted a monetary order in the amount of \$278.50. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 28, 2020

Residential Tenancy Branch