



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDCL-S, OPM, OPR, MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- an Order of Possession for non-payment of rent pursuant to section 55;
- an Order of Possession for a signed mutual agreement pursuant to section 55;
- a monetary order for unpaid rent or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package, which was served to her by the landlord's agent. In accordance with sections 88 and 89 of the *Act*, I find that the tenant duly served with the landlord's dispute resolution package. The tenant did not submit any written evidence for this hearing.

The tenant agreed to move out by 5:00 p.m. on June 30, 2020. As both parties agreed that this tenancy would end by 5:00 p.m. on June 30, 2020, the landlord will be provided with an Order of Possession

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy began on December 1, 2018. Both parties entered into a new tenancy agreement for the period of December 1, 2018 to June 30, 2020. The landlord provided a copy of this tenancy agreement in his evidentiary materials. The tenant agreement states that monthly rent is set at \$2,000.00, payable on the first of every month. The tenant confirmed that the landlord still holds her \$750.00 damage deposit.

The landlord testified that the tenant owes \$9,000.00 in outstanding rent for this tenancy as follows: \$1,000.00 for February 2020, and the entire \$2,000.00 monthly rent for the months of April 2020 through to June 2020. The tenant disputes the landlord's application, stating that rent was set at only \$1,000.00 as her son was responsible for the remaining \$1,000.00 as part of a separate tenancy. The tenant testified that she was unable to make payments due to financial hardship.

Analysis

Residential Policy Guideline #13 clarifies the rights and responsibilities of co-tenants. I find that the landlord had provided sufficient evidence to support that a tenancy exists between him and the tenant, as well as her son, the co-tenant.

I find that the written tenancy supports the existence of only one tenancy between the landlord and the two parties, with monthly rent set at \$2,000.00, payable on the first of the month.

As stated in Policy Guideline #13:

"Co-tenants are jointly and severally responsible for payment of rent when it is due. Example: If John and Susan sign a single tenancy agreement together as co-tenants to pay \$1800 dollars in rent per month, then John and Susan are both equally responsible to ensure that this amount is paid each month. If Susan is unable to pay her portion of the rent, John must pay the full amount."

"Sometimes a co-tenant may move out of the rental unit without giving the landlord a notice to end tenancy. If a co-tenant decides to remain in the rental unit and continue with the tenancy, they can do so as long as they uphold their responsibilities according to the agreement (such as paying the full amount of rent, etc.). The co-tenant on the tenancy agreement who moved out remains liable for the tenancy agreement until the tenancy ends, regardless of whether or not they reside in the unit."

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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.*

I find that the tenant was obligated to pay the entire monthly rent of \$2,000.00 as per the tenancy agreement and the Act. I find the tenant has failed to pay \$9,000.00 rent for the months of February 2020 through to June 2020. Accordingly, I allow the landlord's monetary claim for unpaid rent in this amount.

As the landlord was successful with his claim, I allow the landlord to recover the filing fee for this application.

The landlord continues to hold the tenant's security deposit of \$750.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain tenant's security deposit in partial satisfaction of the monetary claim.

Conclusion

By mutual agreement of both parties, I grant an Order of Possession to the landlord effective **5:00 p.m. on June 30, 2020**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. Please note the exceptions set out in the Ministerial Order dated March 30, 2020.

I issue a Monetary Order in the amount of \$8,350.00 in the landlord's favour as set out in the table below. I allow the landlord to retain the tenant's security deposit in partial satisfaction of their monetary claim.

Unpaid Rent	\$9,000.00
Filing Fee	100.00
Less Security Deposit	-750.00
Total Monetary Award	\$8,350.00

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: June 11, 2020

Residential Tenancy Branch