



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Woodsmere Holdings Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

In this dispute, the landlord seeks unpaid rent pursuant to sections 26 and 67 of the *Residential Tenancy Act* (the “Act”), an order of possession pursuant to sections 46 and 55 of the Act, and, recovery of the filing fee under section 72 of the Act.

The landlord applied for dispute resolution on July 6, 2020 and a dispute resolution hearing was held on August 7, 2020. The landlord’s agent and the tenant attended the hearing, and they were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. No issues of service were raised by the parties.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application.

Issues

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to a monetary order for unpaid rent?
3. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

By way of background, the tenancy started in May 2019. Monthly rent is \$1,475.00 which is due on the first of the month. The tenant paid a security deposit of \$725.00. A copy of the written tenancy agreement was submitted into evidence.

The landlord's agent testified that the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") on March 5, 2020 by serving it on the tenant's door. I note that this 10 Day Notice was served before the provincial state of emergency was declared. The 10 Day Notice – a copy of which was tendered into evidence – indicated that \$1,475.00 of rent was due on March 1, 2020. Also submitted into evidence with the 10 Day Notice was a Proof of Service document. The tenant did not dispute that he was given the 10 Day Notice.

As of August 1, 2020, the tenant is in rent arrears totalling \$6,100.00, the landlord's agent testified. The tenant did not dispute the amount that the landlord's agent gave evidence on. "He's correct," the tenant commented.

The tenant's testimony comprised wholly of issues he has with the landlord's method of accepting rent, which is primarily through the use of RentMoola, an online rent payment solution for landlords. I will not reproduce the various issues that the tenant explained he had with the system, however. The landlord's explained that there are alternative ways of paying rent if the tenant did not want to use RentMoola, or if, as the tenant briefly stated, a tenant does not have internet access, they may visit the resident manager and pay the rent.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Order of Possession

Subsection 55(2)(c) of the Act states that a landlord may request an order of possession of a rental unit when a notice to end the tenancy has been given by the landlord, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

In this dispute, the landlord gave the tenant the 10 Day Notice on March 5, 2020. The tenant did not dispute the 10 Day Notice, and the time for making any such application to dispute the 10 Day Notice has long since expired.

Applying section 55 of the Act to the facts of this case, and pursuant to sections 46 and 55 of the Act, I grant an order of possession to the landlord. This order is effective two days after service upon the tenant.

Claim for Unpaid Rent

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.

The landlord's agent testified, and provided documentary evidence to support their submission, that the tenant is in rent arrears totaling \$6,100.00. The tenant did not disagree or dispute that he owes this amount and remarked that he "could get them the rent" but that he had lingering issues with the rent payment system set up by the landlord.

Taking into consideration all the 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 their claim for \$6,100.00.

As an aside, I note that the tenant apparently had no problem paying the rent between May 2019 and February 2020, so I find it hard to believe that RentMoola was the reason why he stopped paying rent. As the landlord's agent explained, there are alternative methods for the tenant to pay the rent, of which none the tenant chose to avail himself.

Recovery of Filing Fee

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 their claim for reimbursement of the filing fee of \$100.00.

Summary of Monetary Award and Order

The landlord is awarded a total monetary award of \$6,200.00.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if "after the end of the tenancy, the director orders that the landlord may

retain the amount.” As the tenancy has now ended, I order that the landlord to retain the tenant’s security deposit of \$725.00 in partial satisfaction of the above-noted award. A monetary order in the amount of \$5,475.00, the balance, is issued in conjunction with this decision.

Conclusion

I grant the landlord an order of possession, which must be served on the tenant and is effective two (2) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I grant the landlord a monetary order in the amount of \$5,475.00, which must be served on the tenant. Should the tenant fail to pay the landlord the amount owed, the landlord may file, and enforce, the order in the Provincial Court of British Columbia (Small Claims Court).

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

Dated: August 10, 2020

Residential Tenancy Branch