



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC-S, MNR-S, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a One Month Notice to End Tenancy for Cause (Notice)
- compensation for a monetary loss or other money owed
- a monetary order for unpaid rent
- authority to keep the tenant's security deposit to use against a monetary award; and
- recovery of the filing fee.

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

The landlord stated she served the tenant with her Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on July 16, 2020. The landlord provided the Canada Post tracking history containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence specifically referenced by the applicant and relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The landlord filed evidence showing an amended monetary claim for post tenancy issues. The landlord confirmed she served the tenant the additional evidence by email.

I informed the landlord I would be unable to consider any claim not originally requested in her application, as it was not made through an amended application increasing the monetary claim and the new evidence was sent to the tenant by email, which is not an accepted method of service of documents. The landlord is at liberty to make another application for any claim not dealt with in this matter.

As a procedural matter, the landlord's evidence shows that the tenant vacated the rental unit on or around July 31, 2020. I have therefore excluded the request for an order of possession of the rental unit and the hearing proceeded on the merits of the landlord's application for their original monetary claim.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of March 1, 2019, a fixed term through August 1, 2019, monthly rent of \$2,500, due on the 1st day of the month, and a security deposit of \$1,250 being paid by the tenant to the landlord. The written tenancy agreement shows the tenancy would continue after the date of the fixed term, on a month-to-month basis.

The written tenancy agreement also required the tenant to pay one third of the utilities, such as electricity, water, garbage and recycling fees.

The landlord retained the tenant's security deposit, having made this claim against it.

The landlord submitted that the tenant failed to pay the monthly rent for the month of July 2020 and now owes the amount of \$2,500.

The landlord submitted that the tenant owed, but did not pay the hydro for the months of April, May, June, and July 2020, despite repeated requests. The landlord submitted copies of the utility bills.

The landlord's monetary claim is \$2,937.56, comprised of the unpaid rent for July of \$2,500, unpaid hydro for April, May and June for \$328.17, and unpaid hydro for July for \$109.39.

Analysis

Under section 26 of the Act, a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, unless the tenant has a right under the Act to deduct all or a portion of the rent. A legal right may include authorization from an Arbitrator giving you permission to keep all or part of the rent or costs incurred to make an "emergency repair", as defined by the Act.

I find that the landlords submitted sufficient evidence to show that the tenant owed, but did not pay rent for July 2020, under the terms of the written tenancy agreement. I therefore find the landlord has established a monetary claim of \$2,500 for unpaid rent for July 2020.

I also find the landlord submitted sufficient evidence that under the written tenancy agreement the tenant owed one third of the utilities, and failed to pay his share for the last four months of the tenancy. I find the landlord has established a monetary claim of unpaid utilities of \$437.56.

I also grant the landlord \$100 for recovery of her filing fee.

Conclusion

The landlord has established a monetary claim, in the amount of \$3,037.56, which includes \$2,500 for unpaid rent for July 2020, unpaid utilities of \$437.56 and \$100 for recovery of her filing fee.

Pursuant to section 72(2) of the Act, I authorize the landlord to retain the tenant's security deposit of \$1,250 in partial satisfaction of this monetary claim. I grant the landlord a monetary order for the balance due, in the amount of \$1,787.56.

In the event the tenant does not voluntarily comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The tenant is cautioned that costs of enforcement are recoverable from the tenant.

The amended portion of the landlords' application seeking additional monetary compensation has been dismissed, with leave to reapply.

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: August 20, 2020

Residential Tenancy Branch