



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 5470 Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on May 25, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent;
- an order to retain the Tenant's security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on September 28, 2020 as a teleconference hearing. The Landlord's Agent and the Landlord's Counsel appeared at the appointed date and time of the hearing. No one appeared for the Tenant. The conference call line remained open and was monitored for 19 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, the Landlord's Counsel, and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant by registered mail on May 29, 2020. The Landlord submitted a copy of the Canada Post registered mail receipt in support. 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 June 2, 2020, the fifth day after the registered mailing. The Tenant did not submit documentary evidence in response to the Application.

The Landlord's Agent and the Landlord's Counsel were 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.

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 retain the Tenant's security deposit, pursuant to Section 38 and 72 of the *Act*?
3. Is the Landlord entitled to an order granting the recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy between the parties began on March 15, 2018. During the tenancy, the Tenant was required to pay rent in the amount of \$1,700.00 which was due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$850.00 which the Landlord continues to hold. The tenancy ended on August 31, 2020.

The Landlord's Counsel submitted that the Tenant failed to pay \$500.00 of the required \$1,700.00 of rent due to the Landlord in April 2020. Furthermore, the Landlord's Counsel stated that the Tenant failed to pay rent when due for May, June, July, August, and September 2020 for a total of \$9,000.00 in unpaid rent. The Landlord's Counsel stated that the Tenant did not give formal notice to end tenancy prior to vacating the rental unit on August 31, 2020. As such, the Landlord was unable to re-rent the rental unit in September 2020. If successful, the Landlord is seeking to retain the Tenant's security deposit, as well as recover the filing fee paid to make the Application.

As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

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

Section 26(1) of the Act confirms:

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.

In this case, I find that there is no evidence to demonstrate that the Tenant was entitled deduct any portions of the rent. As such, I find that the Tenant has breached Section 26 of the Act by not paying rent when due to the Landlord.

While the Provincial Government has mandated Landlords to issue a repayment plan in respect to unpaid rent payable during the “specified period” (i.e. between March 18, 2020 and August 17, 2020), the Residential Tenancy Policy Guideline #52 states as follows: E. APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE BEFORE JULY 31, 2020 (...)

If a tenancy has ended prior to a repayment plan being given, or ends after a repayment plan has been given or there is a prior agreement and the tenant has failed to pay an installment, the arbitrator may grant a monetary order that the unpaid affected rent be paid in full as of the date of the order.

Where a landlord is required to give a repayment plan but no valid repayment plan has been given and no valid prior agreement exists, the arbitrator may assist the parties in completing a repayment plan that meets the requirements of the C19 Tenancy Regulation or dismiss the application with leave to reapply.

I accept that the tenancy ended on August 31, 2020 prior to the parties arranging a repayment plan. As such, I find that the Landlord is permitted to seek monetary compensation for unpaid rent payable during the “specified period”.

I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of \$9,000.00 for unpaid rent relating to April, May, June, July, August and September 2020. I further find it appropriate in the circumstance to order that the Landlord retain the Tenant’s security deposit in the amount of \$850.00 in partial satisfaction for the monetary award. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$8,250.00, which has been calculated as follows:

Claim	Amount
Unpaid Rent:	\$9,000.00
Filing Fee:	\$100.00
<i>Less Security Deposit:</i>	<i>-(\$850.00)</i>
TOTAL:	\$8,250.00

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 \$8,250.00. The monetary order should be served to the Tenant as soon as possible and 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: September 28, 2020

Residential Tenancy Branch