



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, OFL, FFL

Introduction

In this dispute, the landlord seeks a monetary order for unpaid rent and for recovery of a municipal bylaw offense fine, pursuant to section 67 of the *Residential Tenancy Act* (the “Act”). While the landlord had sought an order of possession under section 56.1 of the Act when they filed their application, the tenant no longer resides on the property and as such this part of the landlord’s application is moot.

The landlord filed an application for dispute resolution on August 11, 2020 and a dispute resolution hearing was held on September 28, 2020. The landlord attended the hearing and she was given a full opportunity to be heard, present affirmed testimony, make submissions, and call witnesses. The tenant did not attend the hearing.

In respect of the service of the Notice of Dispute Resolution Proceeding package, the landlord testified that she served the tenant by Canada Post registered mail. Based on this undisputed testimony I find that the landlord served the tenant with the Notice of Dispute Resolution Proceeding in compliance with the Act and the *Rules of Procedure*.

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 a monetary order for unpaid rent?
2. Is the landlord entitled to a monetary order for a municipal bylaw fine?

Background and Evidence

The landlord testified that the tenancy began at least twelve or thirteen years ago; the tenant moved out on September 3 or 4, 2020. Monthly rent was \$1,400.00, due on the first of the month. There was no security or pet damage deposit paid.

Regarding the unpaid rent, the landlord gave evidence that the tenant did not pay rent for July and for August 2020. Rent arrears are, therefore, \$2,800.00.

In addition, the tenant did some burning on the property without a required municipal permit. This resulted in a fine being levied in the amount of \$200.00; a copy of the bylaw offence ticket was submitted into evidence.

Finally, while it did not show up in her application as a claim, the landlord confirmed that she had paid the \$100.00 application filing fee and that she wished to recover that amount.

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.

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 gave undisputed testimony that the tenant did not pay rent for July and August 2020. Further, there is no evidence before me that the tenant had a right under the Act to not pay the rent. Therefore, 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 compensation in the amount of \$2,800.00 for unpaid rent.

Section 67 of the Act states that

Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party

not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

It is an expectation that a tenant, while occupying a rental unit, will comply with municipal, provincial and federal law. In this case, the tenant, while occupying the rental unit, burned without a permit, which resulted in the landlord incurring a fine for which she was not responsible. As such, I find that the landlord is entitled to compensation for the fine of \$200.00 which the tenant caused.

Finally, 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 her claim for reimbursement of the \$100.00 filing fee.

Conclusion

I grant the landlord a monetary order in the amount of \$3,100.00, 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: September 28, 2020

Residential Tenancy Branch