



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, MNR, MNDC, 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 based upon the tenants' written notice to end the tenancy;
- a monetary order for unpaid rent;
- compensation for a monetary loss or other money owed; and
- recovery of the filing fee.

The landlord and the other landlord listed on the written tenancy agreement attended the hearing; however, the tenants did not attend.

The landlord stated he served each tenant with his application for dispute resolution and Notice of Hearing by registered mail on August 21, 2020 to the rental unit address. The landlord provided the Canada Post Customer Receipt containing the Tracking Numbers to confirm this mailing. Those numbers are listed on the style of cause page in this Decision.

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

The landlord was provided the opportunity to present their 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 relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

I have determined that the landlord incorrectly listed as an issue that he wanted an order of possession of the rental unit based upon the tenants' written notice to end the tenancy.

The landlord's evidence showed that it was the landlord who served the tenants a notice to end the tenancy, in the form of a One Month Notice to End Tenancy for Cause (Notice). The landlord filed the Notice into evidence, which was dated July 16, 2020, and had an effective end of tenancy date of August 15, 2020.

The landlord confirmed that since their application was made on August 14, 2020, the tenants have vacated the rental unit, in mid-September.

I determined it was appropriate to amend the landlord's application to exclude their request for an order of possession of the rental unit.

Additionally, the landlord testified that in addition to the rent owed for June, July and August 2020, the tenants have subsequently not paid the rent for September, 2020, as will be more fully set out. As a result, the landlord requested to amend the application to include rent owed through September. As this request to amend the application does not prejudice the respondent/tenant as the tenant would be aware that rent is due pursuant to the tenancy agreement, I amend the application to include a request for a monetary order for unpaid rent for September 2020.

The hearing proceeded only on the landlord's request for unpaid rent due under the tenancy agreement.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

The landlord submitted a written tenancy agreement showing a month-to-month tenancy start date of May 1, 2020, monthly rent of \$1,400.00, due on the 1st day of the month, and a security deposit owed of \$700.00, which was not paid.

The landlord submitted that the tenants paid the monthly rent for May 2020, and did not pay any further rent before vacating the rental unit in mid-September 2020.

The landlord claims that the tenants owe a rent deficiency of \$5,600.00, owed under the tenancy agreement, comprised of outstanding rent of \$1,400.00 for June, July, August, and September 2020.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlords here, has the burden of proof to substantiate their claim on a balance of probabilities.

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.

I find that the landlord submitted sufficient evidence to show that the tenants owed, but did not pay, rent for June, July, August and September 2020, under the terms of the written tenancy agreement, prior to vacating in mid-September 2020. I therefore find the landlord has established a monetary claim of \$5,600.00 for total, unpaid rent.

I also grant the landlord \$100.00 for recovery of his filing fee.

Conclusion

The landlord has established a monetary claim, in the amount of \$5,700.00, which includes \$5,600.00 for total unpaid rent for June, July, August, and September 2020, due under the written tenancy agreement and \$100.00 for recovery of the filing fee.

I grant the landlord a monetary order in the amount of \$5,700.00.

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

The tenants are cautioned that costs of enforcement are recoverable from the tenants.

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: October 1, 2020

Residential Tenancy Branch