



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, MNRL, FFL

Introduction

On June 10, 2020 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent;
- a monetary order for damage compensation or loss; and
- an order granting recovery of the filing fee.

The Landlord, the Landlord’s Counsel T.C., the Landlord’s witness R.M., and the Tenant attended the hearing at the appointed date and time. At the start of the hearing the parties confirmed service of their respective Application and documentary evidence packages. I find the above-mentioned documents were sufficiently served pursuant to Section 71 of the *Act*.

The parties 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 monetary order for compensation, damage or loss, pursuant to Section 67 of the *Act*?

3. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the parties entered into a fixed term tenancy which began on May 17, 2019 until August 17, 2019 at which point it converted to a periodic month to month tenancy thereafter. During the tenancy, rent in the amount of \$9,800.00 was due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$4,900.00 which has been returned to the Tenant based on a previous Dispute Resolution Decision dated May 26, 2020. The tenancy ended on December 6, 2019. The Landlord submitted a copy of the tenancy agreement in support.

The Landlord's Counsel stated that the Tenant ended the periodic tenancy without providing the Landlord with sufficient notice to end tenancy. The Landlord stated that she received notification from the Tenant's Insurer on November 6, 2019 which indicated that the Insurance Company would not continue paying the Tenant's rent beyond November 30, 2019. The Landlord stated that she texted the Tenant to enquire about the notification at which point the Tenant notified the Landlord that she would vacate the rental unit on December 6, 2019. The Landlord stated that she was unable to re-rent the rental unit throughout December 2019 as a result of not having received a formal notice to end tenancy from the Tenant.

The Tenant responded by stating that she was unaware that the insurance company would not be paying her rent beyond November 30, 2019. The Tenant stated that she was not provided notice to end tenancy from the Landlord and the Tenant confirmed that the parties did not mutually agree to end the tenancy on December 6, 2019 prior to the Tenant vacating the rental unit.

Analysis

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

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.

According to Section 45 (1) of the *Act*, a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that;

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) If a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

(4) A notice to end a tenancy given under this section must comply with section 52 [form and content of notice to end tenancy].

In this case, I accept that the Insurance Company indicated to the Landlord that they would only pay the Tenant's rent up until November 30, 2019. I find that this does not constitute the Tenant's notice to end tenancy. I accept that while the Tenant had her rent paid by her Insurance Company during the tenancy, I find that the Tenant is ultimately responsible for ensuring that the terms of the tenancy agreement are adhered to, including payments of rent to the Landlord. I find that the Tenant did not provide the Landlord with her notice to end tenancy in accordance with Section 45 of the *Act*, and did not pay rent to the Landlord when due for December 2019 in accordance with Section 26 of the *Act*.

In light of the above, I find that the Landlord has established an entitlement to compensation for loss of rent for the month of December 2019 in the amount of

\$9,800.00. Having been successful, I find the Landlord is entitled to recover the 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 \$9,900.00, which has been calculated as follows:

Claim	Amount
Unpaid Rent	\$9,800.00
Filing fee:	\$100.00
TOTAL:	\$9,900.00

Conclusion

The Tenant breached the *Act* by not paying rent when due to the Landlord and by not providing the Landlord with proper notice to end tenancy. The Landlord is granted a monetary order in the amount of \$9,900.00. The 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 BC (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: October 05, 2020