



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S

Introduction

The Landlord submitted an Application for Dispute Resolution (the “Application”); on July 15, 2020, seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for damage compensation or loss;
- an order to retain the Tenant’s security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30 pm on November 6, 2020 as a teleconference hearing. Only the Landlord appeared at the appointed date and time of the hearing. No one called in for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended.

The Landlord testified he served the Application package and documentary evidence to the Tenant via Canada Post Registered Mail on July 20, 2020. The Landlord provided the registered mail tracking information during the hearing in support. Based on the oral and written submissions of the Applicant, 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 July 25, 2020, the fifth day after their registered mailing. The Tenant did not submit documentary evidence in response to the Application.

The Landlord was given the 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.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage compensation or loss, pursuant to Section 67 of the *Act*?

2. Is the Landlord entitled to retain the Tenant's security deposit, pursuant to Section 72 of the *Act*?
3. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord stated the following; the tenancy started on February 1, 2020. The Tenant was required to pay rent in the amount of \$1,600.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$800.00, which the Landlord currently holds. The Landlord provided a copy of the tenancy agreement in support. The Landlord stated that he received an Order of Possession in September 2020 and was able to gain vacant possession of the rental unit on or about October 15, 2020.

The Landlord stated that the Tenant failed to pay rent in the amount of \$1,600.00 when due to the Landlord from April till July 2020. As such, the Landlord has applied for monetary compensation relating to unpaid rent for April, May, June, and July 2020 in the amount of \$6,400.00. The Landlord is seeking to retain the Tenant's security deposit and recover the filing fee.

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, the Landlord is claiming for unpaid rent for April, May, June, and July 2020 in the amount of \$6,400.00. I accept that the amount of rent is \$1,600.00 which is due to be paid by the Tenant to the Landlord on the first day of each month. I accept the Landlord's undisputed testimony that the Tenant failed to pay rent from April till July 2020. As such, I find that the Tenant has breach Section 26 of the *Act*.

I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of **\$6,400.00**. Having been successful, I also find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$5,700.00, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$6,400.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	-(<i>\$800.00</i>)
TOTAL:	\$5,700.00

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 \$5,700.00. 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: November 10, 2020

Residential Tenancy Branch