



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on September 4, 2020, wherein the Landlord sought monetary compensation in the amount of \$3,273.75 from the Tenant for unpaid rent and other losses including recovery of the \$100.00 filing fee.

The hearing of the Landlord's Application was scheduled for 1:30 p.m. on December 15, 2020. Only the Landlord called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 1:47 p.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that he served the Tenant with the Notice of Hearing and the Application on September 12, 2020 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

The Landlord confirmed that according to the Canada Post tracking information available online the Tenant was served as of September 16, 2020. I accept the Landlord's testimony in this respect and find the Tenant was duly served with notice of this hearing and I proceeded with the hearing in their absence.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord recover the filing fee?

Background and Evidence

A copy of the tenancy agreement was provided in evidence and confirmed that this fixed term tenancy began October 1, 2019 and was set to end on September 30, 2020. Monthly rent was \$1,650.00 and the Tenant paid a security deposit of \$825.00.

The Landlord testified that the Tenant failed to pay rent following which the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent. The Tenant moved out on March 15, 2020. The Landlord confirmed he had filed for dispute resolution as of March 4, 2020, but the Tenant moved out prior to the hearing such that the Landlord withdrew the application for an order of possession. The file number for that matter is included on the unpublished cover page of this my Decision.

The Landlord testified that he was able to re-rent the unit as of April 1, 2020.

The Landlord further testified that the Tenant authorized the Landlord to retain the \$825.00 security deposit towards the cost of the damage to the rental unit.

In the hearing before me the Landlord sought the sum of \$3,173.75 including the following:

| | |
|-------------------------------------|-------------------|
| Outstanding rent | \$2,490.00 |
| Liquidated damages | \$200.00 |
| Skip trace fee | \$183.75 |
| Strata move in and move out fee | \$100.00 |
| Filing fee for previous application | \$100.00 |
| Filing fee for current application | \$100.00 |
| TOTAL CLAIMED | \$3,173.75 |

In support of the claim for unpaid rent, the Landlord provided confirmation of the electronic transfers made by the Tenant, as well as a document setting out in detail the amounts paid for rent compared to the amounts payable pursuant to the tenancy

agreement; this documentary evidence confirmed the Landlord's testimony that the sum of \$2,490.00 remained outstanding. Electronic communication between the parties was also submitted in evidence and which confirmed the Tenant acknowledged the debt for unpaid rent.

As the Tenant ended the tenancy prior to the expiration of the fixed term, the Landlord also sought "Liquidation Fees" in the amount of \$200.00 pursuant to clause 7 of the tenancy agreement.

The tenant failed to provide a forwarding address such that the Landlord hired the services of a skip tracer to find the Tenant. The invoice for \$183.75 was provided in evidence before me. The Landlord sought monetary compensation for this amount.

The Landlord testified that he paid a move in and move out fee to the strata and requested reimbursement of this amount from the Tenant.

The Landlord sought recovery of the filing fee paid for both the current application as well as the application for an order of possession which was withdrawn prior to the hearing.

Analysis

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

www.gov.bc.ca/landlordtenant.

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- proof that the damage or loss exists;
- proof that the damage or loss occurred due to the actions or neglect of the responding party in violation of the Act or agreement;
- proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Section 26 of the *Act* provides that a Tenant must pay rent when rent is due. I find the Tenant was obligated to pay rent in the amount of \$1,650.00 per month. I accept the Landlord's evidence that the Tenant failed to pay rent as required by the tenancy agreement leaving a balance of \$2,490.00. I therefore award the Landlord this amount for unpaid rent.

I find that the tenancy was for a fixed term ending September 30, 2020. The evidence confirmed the Tenant ended the tenancy prior to the fixed term. Pursuant to clause 7 of the tenancy agreement, the Landlord is entitled to liquidated damages in the amount of \$200.00. I therefore award the Landlord recovery of this sum.

I accept the Landlord's evidence that the Tenant failed to provide a forwarding address such that he required the services of a skip tracer to locate the Tenant. As the Landlord was required to serve the Tenant with notice of this hearing, I find the amount claimed for the skip tracer to be recoverable from the Tenant.

The evidence confirms the Tenant was provided a copy of the strata rules when the tenancy began. I accept the Landlord's evidence that he paid a \$100.00 move in and move out fee to the strata on the Tenant's behalf. I also find this amount to be recoverable from the Tenant.

The Landlord requested the filing fee for the application requesting an order of possession. As that file was withdrawn, I decline the Landlord's request for compensation for the fee.

As the Landlord has been successful in the *current* Application, I award him recovery of the \$100.00 fee paid.

Conclusion

The Landlord is entitled to monetary compensation in the amount of **\$3,073.75** for the following:

| | |
|------------------------------------|-------------------|
| Outstanding rent | \$2,490.00 |
| Liquidated damages | \$200.00 |
| Skip trace fee | \$183.75 |
| Strata move in and move out fee | \$100.00 |
| Filing fee for current application | \$100.00 |
| TOTAL AWARDED | \$3,073.75 |

In furtherance of this my Decision I grant the Landlord a Monetary Order in the amount of **\$3,073.75**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: December 16, 2020

Residential Tenancy Branch