



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals
Ltd and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on January 12, 2021. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities; and,
- to recover the filing fee from the Tenant for the cost of this application.

The Landlord attended the hearing. However, the Tenant did not. The Landlord provided registered mail tracking information to show that she sent the Tenant her application, and evidence on September 25, 2020. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received this package on September 30, 2020, the fifth day after it was mailed.

The Landlord was provided 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.

The Landlord has requested to amend their application to include rent that has accrued since the original application date. I turn to the following Rules of Procedure (4.2):

Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

In consideration of this, I allow the Landlord to amend their application to include rent that has accrued since the original application date.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord stated that the Tenant has had significant challenges with paying rent over the past 10 months. The Landlord stated that monthly rent is \$1,625.00, and is due on the first of the month. The Landlord explained that ever since COVID hit, the Tenant has almost completely stopped paying rent.

The Landlord summarized the Tenant's outstanding rent (as of today's date) as follows:

Date	Item	Amount Due	Amount Paid	Accrued Balance Owing
April 1, 2020	Rent Due	\$1,625.00	\$0.00	\$1,625.00
May 1, 2020	Rent Due	\$1,625.00	\$0.00	\$3,250.00
June 1, 2020	Rent Due	\$1,625.00	\$0.00	\$4,875.00
July 1, 2020	Rent Due	\$1,625.00	\$0.00	\$6,500.00
August 1, 2020	Rent Due	\$1,625.00	\$0.00	\$8,125.00
September 1, 2020	Rent Due	\$1,625.00	\$0.00	\$9,750.00
October 1, 2020	Rent Due	\$1,625.00	\$0.00	\$11,375.00
October 14, 2017	Rent Payment		\$700.00	\$10,675.00
October 20, 2020	Rent Payment		\$200.00	\$10,475.00
November 1, 2020	Rent Due	\$1,625.00	\$0.00	\$12,100.00
November 13, 2020	Rent Payment		\$900.00	\$11,200.00
December 1, 2020	Rent Due	\$1,625.00	\$0.00	\$12,825.00
December 15, 2020	Rent Payment		\$900.00	\$11,925.00
January 1, 2021	Rent Due	\$1,625.00	\$0.00	\$13,550.00
Total Accrued Balance				\$13,550.00

The Landlord stated that they are aware that rent that became due between March and August of 2020, is considered "affected rent" and the Landlord is also aware that when there is affected rent, a repayment plan must be given to the Tenant. In this case, the Landlord provided registered mail tracking information to show they mailed a "repayment plan" in accordance with the Regulations, to the Tenant on August 22,

2020. The Landlord stated that this repayment plan was ignored by the Tenant and he did not make his first payment, which was due on October 1, 2020. The Landlord stated that they are left with no choice, since the Tenant is not paying rent, nor is he paying his repayment amounts.

The Landlord noted that the Tenant has only paid 4 small payments, as laid out above, since last April 2020. The Landlord stated that they have issued a 10 Day Notice to End Tenancy a few days ago, but they wish to get a monetary order as part of this hearing. They will apply for an order of possession at a later date.

Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

I have reviewed the repayment plan provided by the Landlord to the Tenant on or about August 22, 2020. The Landlord delivered this agreement, via registered mail. Pursuant to section 88 and 90 of the *Act*, I find the Tenant is deemed to have received this repayment plan on August 27, 2020, five days after it was mailed. Further, I have reviewed the repayment plan and I find it compliant with the C19 Tenancy Regulations. It does not appear the Tenant complied with the repayment plan, and only made a couple smaller payments in November and December of 2020, despite the first payment being due on October 1, 2020.

Now, on this application, the Landlord is seeking to recover all rent owing, including both unpaid “affected rent”, and all other rent. I note “affected rent” is defined as rent that became due between March 18, 2020, until August 17, 2020.

I note the following portion of the ***Policy Guideline #52 - COVID-19: Repayment Plans and Related Measures***:

F. APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE ON OR AFTER JULY 31, 2020

If no valid repayment plan has been given to a tenant, or a valid repayment plan has been given to a tenant or a landlord and tenant have a valid prior agreement in place and the tenant is in good standing because:

- *the first payment has not come due, or*
- *the tenant is paying the installments as required,*

then an arbitrator may dismiss the application with leave to reapply, until such time as the tenancy ends and/or the tenant has failed to pay, at least, one installment.

I note I may dismiss the Landlord's application for unpaid affected rent if the repayment plan is in good standing and the Tenant is fulfilling the repayment obligations. However, in this case, I find the evidence demonstrates he has failed to pay as required.

I do not find the Landlord is required to issue any further repayment plan, and the Landlord is entitled to a monetary order for all unpaid rent accrued from April 2020 until January 2021. These amounts are laid out above in the chart.

Ultimately, I am satisfied the Tenant has failed to pay \$13,550.00 in rent, which covers up to and including the month of January 2021.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the landlord was substantially successful in this hearing, I order the tenant to repay the \$100.

In summary, I award the Landlord a monetary order in the amount of \$13,650.00.

If the Landlord requires an order of possession, she will have to make an application for this, separately.

Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$13,650.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: January 12, 2021