



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0915303 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNRL, MNDCL FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord under the Residential Tenancy Act, (the “Act”) for an order of possession to enforce 10-Day Notice for Unpaid Rent (the “10-Day Notice”) issued on December 3, 2020, for an order of possession to enforce One-Month Notice to End Tenancy for Cause (the “One-Month Notice”) issued on November 27, 2020, for a monetary order for unpaid rent or utilities, for a monetary order for compensation for monetary loss or other money owed, and to recover the cost of filing the application. The matter was set for a conference call.

Two Agents for the Landlord (the “Landlord”) attended the hearing and were affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the Act and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution, and Notice of Hearing had been sent to the Tenant by registered mail on January 14, 2020. Section 90 of the Act determines that a document served in this manner is deemed to have been received five days later. I find that the Tenant had been duly served in accordance with the Act.

The Landlord was provided with the opportunity to present her evidence orally and in written and documentary form and to make submissions at the hearing.

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.

Preliminary Matter – Issues Withdrawn

At the outset of these proceedings, the Landlord testified that the Tenant had abandoned the rental unit on February 7, 2021. The Landlord testified that they currently have possession of the rental unit and no longer require an order of possession.

The Landlord requested to withdraw their requests to enforce both the 10-Day Notice for Unpaid Rent issued on December 3, 2020, and the One-Month Notice issued on November 27, 2020.

Additionally, the Landlord requested to withdraw their application for a monetary due to loss or other money owed, stating that they need to compile additional evidence to support this portion of their claim.

As the Tenant was not present to object, I find it appropriate to grant the Landlord's request to withdraw their requests to enforce the 10-Day Notice and the One-Month notice to end the tenancy, as well as their request for a monetary due to loss or other money owed.

I will proceed in this hearing on the remaining issues of a monetary order for unpaid rent and for the recovery of the filing fee for these proceedings.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

The tenancy agreement shows that this tenancy began on September 1, 2019, as a one-year fixed term that rolled into a month to month tenancy at the end of the initial fixed term. The Landlord testified that rent in the amount of \$2,450.00 was to be paid by the first day of each month and that they are holding a \$1,100.00 security deposit for this tenancy. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The Landlords testified that the Tenant had not paid the rent for December 2020, January 2021, and February 2021, in the amount of \$7,350.00. The Landlord is requesting a monetary order for the outstanding rent.

Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

Section 26(1) of the *Act* states that a tenant must pay the rent when it is due under the tenancy agreement.

Rules about payment and non-payment of rent

26 (1) *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.*

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

(a) seize any personal property of the tenant, or

(b) prevent or interfere with the tenant's access to the tenant's personal property.

(4) Subsection (3) (a) does not apply if

(a) the landlord has a court order authorizing the action, or

(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.

In this case, I accept the undisputed testimony of the Landlord that the rent was not been paid for December 2020, January 2021, and February 2021. I find that the Tenant breached section 26 of the *Act* when they did not pay the rent as required under the tenancy agreement.

Therefore, I find that the Landlord has established an entitlement to a monetary award in the amount of \$6,250.00, comprised of \$2,450.00 in rent for December 2020, \$2,450.00 in rent for January 2021 rent, and \$2,450.00 in rent for February 2021, less the \$1,100.00 the Landlord is holding as a security deposit for this tenancy.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this hearing.

I grant the Landlord a monetary order in the amount of \$6,350.00, consisting of \$7,350.00 in outstanding rent, \$100.00 in the recovery of the filing fee for this hearing, less the \$1,100.00 security deposit the Landlord is holding for this tenancy.

Conclusion

I find for the Landlord under sections 26, 65 and 72 of the *Act*. I grant the Landlord a **Monetary Order** in the amount of **\$6,350.00**. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: February 11, 2021

Residential Tenancy Branch