



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S FFL

Introduction

The landlord seeks compensation for unpaid rent pursuant to sections 26 and 67 of the *Residential Tenancy Act* ("Act"). They also seek compensation for the filing fee under section 72 of the Act.

The landlord filed an application for dispute resolution on November 23, 2020 and a hearing was held, by teleconference, on March 16, 2021. Only the landlord's agent (the "landlord") attended hearing, which began at 1:30 PM and ended at 1:37 PM.

I am satisfied based on evidence provided by the landlord, which including a copy of registered mail in which the Notice of Dispute Resolution Proceeding was sent, that the tenants were served in compliance with Act and the Rules of Procedure.

Issue

Is the landlord entitled to compensation?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the above-noted issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began August 1, 2019, monthly rent was \$2,480.00, and the tenants paid a security deposit of \$1,240.00. A copy of the written Residential Tenancy Agreement was submitted into evidence. On October 23, 2020, the landlord obtained an order of possession in a direct request application. However, it was not until the landlord obtained a writ of possession and was in the process of hiring a bailiff that the tenants decided to vacate on December 23, 2020.

The landlord gave evidence, and provided documentary evidence to support their claim, that the tenants did not pay rent for April, May, September, October, November, and December 2020. As of the tenants' vacate date, which is when the tenancy can be considered to have ended, rent arrears totalled \$13,240.00.

Analysis

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent.

The landlord testified, and provided documentary evidence to support their submission, that the tenants did not pay rent and accumulated \$13,240.00 in arrears. There is no evidence before me that the tenants had a right under the Act to deduct some or all of the rent. They simply did not pay the rent as was required by the Act and the tenancy agreement.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for compensation in the amount of \$13,240.00 for unpaid rent.

As the landlord was successful in this application, I award them an additional \$100.00 to cover the cost of the filing fee, pursuant to section 72(1) of the Act, for a total award of \$13,340.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if "after the end of the tenancy, the director orders that the landlord may retain the amount." As such, I order that the landlords may retain the tenants' security deposit of \$1,240.00 in partial satisfaction of the above-noted award.

The balance of the award – \$12,100.00 – is issued by way of a monetary order that shall be given to the landlord in conjunction with this decision. The landlord may file and enforce the monetary order in the Provincial Court of British Columbia (Small Claims).

Conclusion

I grant the landlord's application.

I grant the landlord a monetary order in the amount of \$12,100.00, which must be served on the tenants. If the tenants fail to pay the landlord the amount owed within 15 days of receiving the order, the landlord may file and enforce the order in the Provincial Court of British Columbia (Small Claims Court).

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: March 16, 2021

Residential Tenancy Branch