



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FFT / OPR, MNRL, FFL

Introduction

On February 11, 2021, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) to cancel a 10-day Notice to End Tenancy for Unpaid Rent, dated February 8, 2021 (the “10 Day Notice”), and to be compensated for the cost of the filing fee.

On March 8, 2021, the Landlords submitted an Application for Dispute Resolution under the Act. The Landlords requested an Order of Possession for the rental unit, a Monetary Order to recover unpaid rent, and to be compensated for the cost of the filing fee. The Landlords’ Application was crossed with the Tenant’s Application and the matter was set for a participatory hearing via conference call.

The Landlords attended the conference call hearing; however, the Tenant did not attend at any time during the 19-minute hearing. The Tenant was emailed a copy of the Notice of a Dispute Resolution Hearing by the Residential Tenancy Branch on February 19, 2021; however, did not attend the teleconference hearing set for today at 1:30 p.m.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, I dismissed their Application to cancel the 10-Day Notice, without leave to reapply. The hearing was conducted in the Tenant’s absence and the Landlords’ Application was considered along with the affirmed testimony and evidence as presented by the Landlords.

The Landlords testified that the Tenant had moved out of the rental unit sometime in March 2021 and as of early April 2021, confirmed that the Tenant had moved all of his personal possessions from the property. The Landlords requested to amend their Application by confirming that they no longer required an Order of Possession for the rental unit; however, would like to proceed with the monetary claim for unpaid rent.

Issues to be Decided

Should the Landlord receive a Monetary Order for unpaid rent, in accordance with section 67 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

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 Landlords testified that the month-to-month tenancy began on February 1, 2020. The rent was \$1,400.00 and due on the first of each month. The Landlord did not collect a security deposit.

The Landlord submitted that the Tenant paid their rent for February and March 2020; however, after that point, failed to pay any rent until October 2020. The Tenant made several payments in the Fall of 2020 but did not follow through on the informal repayment plan. The Landlords stated the Tenant did not pay rent for February 2021 and as a result, the Landlords served the Tenant with the 10 Day Notice to End Tenancy.

The Landlords personally served the 10 Day Notice to the Tenant on February 8, 2021 and the Tenant did not pay any of the rent due.

The Landlords have submitted a statement that documents the Tenant's rent payments throughout the tenancy and are claiming a loss of \$10,100.00; the amount of rental arrears between April 2020 and March 2021.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

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 Landlords testified, and provided undisputed documentary evidence to support their submissions, that the Tenant did not pay rent when it was due and is in arrears for the amount claimed. I note that there is no evidence before me that the Tenant had a right under the Act to not pay the rent.

Taking into consideration the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the Landlords have met the onus of proving their claim for compensation in the amount of \$10,100.00.

I find that the Landlords' Application has merit and that the Landlords are entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00.

A total monetary order, which is issued in combination with this Decision, is granted to the Landlords in the amount of \$10,200.00.

Conclusion

I dismiss the Tenant's Application without leave to reapply.

Pursuant to Section 67 of the Act, I grant the Landlords a Monetary Order for \$10,200.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: April 07, 2021

Residential Tenancy Branch