



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding West Fraser Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNR-DR, OPR-DR**

Introduction

This hearing, reconvened from an *ex parte* Direct Request proceeding, dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- An order of possession pursuant to section 55; and
- A monetary award for unpaid rent, damages and loss pursuant to section 67.

The tenants did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served each of the tenants with the Interim Decision and Notice of Hearing by registered mail sent on April 24, 2021. The landlord provided two valid Canada Post tracking numbers as evidence of service. Based on the evidence I find the tenants each deemed served with the landlord's materials on April 29, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

At the outset of the hearing, the landlord withdrew the portion of their application seeking an Order of Possession stating the tenants have vacated the rental unit. The landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the amount of the

rental arrears has changed. As rental arrear changing over time is reasonably foreseeable, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlord's application to reduce their monetary claim from \$1,700.00 to \$600.00.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. The rent for this periodic tenancy was \$1,600.00 payable on the first of each month. A security deposit of \$800.00 was collected at the start of the tenancy and is still held by the landlord. A copy of the tenancy agreement was submitted into evidence. The landlord testified that the named respondent and the tenant listed on the agreement are the same individual and any discrepancy in the spelling of the names is a typographic error.

The tenants vacated the rental unit in June, 2021 without paying full rent and there is an arrear of \$600.00 for this tenancy.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord that there was an enforceable tenancy agreement between the parties wherein the tenants were obligated to pay monthly rent in the amount of \$1,600.00. I accept the evidence that the tenants failed to pay full rent as required and that there is an arrear of \$600.00 as at the date of the hearing.

Accordingly, I find that the landlord is entitled to a monetary award in the amount of \$600.00, the arrear for this tenancy, from the tenants.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$600.00 from the tenant's security deposit of \$800.00 in full satisfaction of the monetary award issued in the landlord's favour

Conclusion

The security deposit for this tenancy is reduced by \$600.00 from \$800.00 to \$200.00.

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: August 17, 2021

Residential Tenancy Branch