



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prospero International Realty
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, MNDL, FFL

Introduction

On May 5, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for unpaid rent, for damages to the rental unit, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord’s Agents (the “Landlord”) and one of the Tenants attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me and the Tenant acknowledged that they did not submit any documentary evidence. As such, I find that the evidence before me is admissible for this hearing.

The Landlord clarified that they are not claiming a monetary amount for damages to the rental unit and only intend on pursuing compensation for a loss of 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

Both parties agreed to the following terms of the tenancy:

The one-year, fixed-term tenancy began on August 1, 2019 and continued as a month-to-month tenancy. The rent was \$2,335.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$1,162.50.

The Landlord submitted a notice to end tenancy received from the Tenants, dated November 12, 2020. The notice advised that the Tenants intended on moving out of the rental on December 15, 2020.

The Landlord responded with a letter, dated November 26, 2020, indicating that the notice provided by the Tenants would mean that the tenancy ended on December 31, 2020. The submitted copy of the letter reference the Tenancy Agreement and the Act and also stated;

“In accordance with the Act the tenancy shall end and the tenant vacate by 1:00 p.m. on the afternoon of the last day of the tenancy (the rental period)”

The Landlord submitted a letter, dated November 30, 2020, received from the Tenants that advised that the Tenants were moving out on December 1, 2020.

The Landlord testified that they were unable to do a move-out inspection with the Tenants as they left with minimal notice.

The Landlord submitted that the Tenants failed to pay the rent that was due for December 2021, and are requesting compensation.

The Tenant testified that there were a lot of problems during the tenancy, attempted to negotiate with the Landlord about paying ½ months rent, and does not think it is fair that the Tenants would have to pay for the month of December.

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.

Section 45(1) of the Act authorizes a tenant to end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month

after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

In this case, I accept the Tenants provided a notice to end tenancy, dated November 12, 2020. As a result of this notice, I find that the effective end-date of this periodic tenancy was December 31, 2020, pursuant to section 45(1) of the Act.

Residential Tenancy Policy Guideline #3 provides the following:

Where a tenant vacates or abandons the premises before a tenancy agreement has ended, the tenant must compensate the landlord for the damage or loss that results from their failure to comply with the legislation and tenancy agreement (section 7(1) of the RTA). This can include the unpaid rent to the date the tenancy agreement ended and the rent the landlord would have been entitled to for the remainder of the term of the tenancy agreement.

The Landlord testified, and provided undisputed documentary evidence to support their submission, that the Tenants did not pay rent for December 2020 and are in arrears for the amount claimed. I note that there is no evidence before me that the Tenants had a right under the Act to not pay the rent.

Taking into consideration all 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 Landlord has met the onus of proving their claim for compensation in the amount of \$2,335.00.

I find that the Landlord's Application has merit, and that the Landlord is entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenants' security deposit in the amount of \$1,162.50, in partial satisfaction of the monetary claim.

A total monetary order, which is issued in conjunction with this Decision, is granted to the Landlord in the amount of \$1,272.50.

Conclusion

Pursuant to section 67 of the Act, I grant the Landlord a Monetary Order for \$1,272.50. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, 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: November 03, 2021

Residential Tenancy Branch