



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"). In addition, they wish to recover the cost of the filing fee, pursuant to section 72 of the Act.

The landlord's husband and an agent for the landlord attended the hearing. The tenant did not attend the hearing.

The landlord's agent gave evidence that they served two Notices of Dispute Resolution Proceeding packages on the tenant (to two addresses that the tenant had provided to the landlord). Canada Post registered mail documentation was in evidence. However, the tenant refused to accept the packages and they were returned. Refusal to accept a legal document does not, of course, void or otherwise halt a legal proceeding, and it is my finding that the tenant was served the Notice of Dispute Resolution Proceeding in accordance with the Act and the *Rules of Procedure*, under the Act.

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 specific issue of this dispute, and to explain the decision, is reproduced below. It is noted that the landlord's agent was affirmed before providing the following substantive evidence:

The tenancy began October 10, 2020 and ended May 19, 2021. Monthly rent, due on the tenth day of the month, was \$1,650.00. The tenant paid a \$825.00 security deposit which the landlord holds in trust. A copy of the tenancy agreement is in evidence.

The tenant failed to pay rent that was due on April 10 and on May 10, 2021. In total, the tenant owes the landlord arrears in the amount of \$3,300.0.

Along with the tenancy agreement, also submitted into evidence was a copy of two ten-day notices to end tenancy for unpaid rent for both months, proofs of service for those notices, and a Monetary Order Worksheet.

Analysis

Section 26 of the Act states that 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.”

The notices to end tenancy support the landlord’s claim that the tenant failed to pay rent for April and May 2021. Arrears are, I find, in the amount of \$3,300.00. Thus, taking into consideration all the undisputed oral and documentary evidence 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.

As the landlord was successful in this application, they are also awarded \$100.00 in compensation to pay for the cost of the application filing fee, pursuant to section 72 of the Act. The total amount awarded is therefore \$3,400.00. Pursuant to section 67 of the Act this is the amount that the tenant is ordered to pay to the landlord.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As this tenancy is over, the landlord is authorized to retain the tenant’s security deposit of \$825.00 in partial satisfaction of the above-noted award.

The landlord is granted a monetary order for the balance of \$2,575.00. While the tenant will be mailed a copy of this Decision, they will not receive a copy of the monetary order; it is the landlord’s responsibility to serve a copy of the monetary order on the tenant should they need to enforce the order in small claims court.

Conclusion

The application is granted.

The landlord is granted a monetary order in the amount of \$2,575.00, which must be served on the tenant. If the tenant fails to pay the landlord the amount owed within 15 days of receiving a copy of this decision or the order, the landlord may file and enforce the order in the Provincial Court of British Columbia.

The landlord is authorized to retain the tenant's \$825.00 security deposit, in full.

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

Dated: November 30, 2021

Residential Tenancy Branch