



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on November 4, 2021. The Landlord applied for the following relief, pursuant to the Residential Tenancy Act (the Act):

- a monetary order for compensation for monetary loss or other money owed;
- a monetary order for unpaid rent;
- an order permitting the Landlord to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing and provided affirmed testimony. The Tenants did not attend the hearing.

The Landlord testified that the Notice of Dispute Resolution Proceeding package was served on AS by email on November 27, 2021, pursuant to an order for substituted service issued by an adjudicator on November 23, 2021. In accordance with the order, the Landlord submitted a copy of the email to AS showing attachments. Pursuant to sections 89 and 90 of the Act, I find these documents are deemed to have been received by AS on November 30, 2021.

A second tenant, DK, was named in the Landlord's application. However, the Landlord testified that the above documents were only served on AS. Therefore, I find DK was not served with the above documents in accordance with the Act. As a result, the application has been amended to remove DK as a party, pursuant to section 64(3) of the Act. Therefore, AS is referred to in the singular as the Tenant for the remainder of this decision.

The Tenant did not submit documentary evidence in response to the Application.

The Landlord was provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for compensation for monetary loss or other money owed?
2. Is the Landlord entitled to a monetary order for unpaid rent?
3. Is the Landlord entitled to an order permitting the Landlord to retain the security deposit?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The Landlord testified that the fixed-term tenancy began March 1, 2021 and was expected to continue to February 28, 2022. However, the Tenants moved out of the rental unit without notice on October 31, 2021. At all material times, rent of \$1,600.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$800.00, which has been retained by the Landlord pending the outcome of this hearing. A copy of the signed tenancy agreement was submitted into evidence.

The Landlord claims for unpaid rent due on October 1, 2021 (\$1,600.00) and November 1, 2021 (\$1,600.00).

The Landlord testified that he was unable to re-rent the unit until December 1, 2021, because the Tenant moved out without notice on October 31, 2021.

The Landlord also seeks to recover the \$100.00 filing fee paid to make the application and requests an order permitting him to retain the \$800.00 security deposit held in partial satisfaction of the claim.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 45(2) of the Act confirms that a tenant may end a fixed term 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, is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement. In other words, a tenant cannot end a tenancy earlier than the date specified in the tenancy agreement as the end of the tenancy. In this case, the date specified in the tenancy agreement as the end of the tenancy was February 28, 2022.

In addition, section 26 of the Act states:

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.

Considering the above, I find the Tenant was not permitted to end the tenancy before February 28, 2022. There is no evidence before me to conclude that any of the exceptions found in the Act apply. As a result, I find that rent became due on October 1 and November 1, 2021. The Landlord is granted a monetary award of \$3,200.00 for unpaid rent.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I also order that the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$2,500.00, which has been calculated as follows:

Claim	Allowed
October 2021 rent:	\$1,600.00
November 2021 rent:	\$1,600.00
Filing fee:	\$100.00
LESS security deposit held:	(\$800.00)
TOTAL:	\$2,500.00

Conclusion

The Landlord is granted a monetary order in the amount of \$2,500.00. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 23, 2022

Residential Tenancy Branch