



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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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, the landlord seeks compensation to cover the cost of the application filing fee under section 72 of the Act.

Attending the dispute resolution hearing were the landlord's agent and both tenants. The parties were affirmed. It is noted that while the tenants remarked that they did not receive the entirety of the landlord's evidence, it is my finding, based on the proof of service provided by the landlord, that all evidence upon which the landlord bases its application was served on the tenants.

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 issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began on January 1, 2012 and ended on July 1, 2021. Monthly rent was \$897.50. There is no written tenancy agreement, but the tenants did not dispute the amount of the rent. The security deposit has since been returned and is not in issue.

The landlord's agent gave sworn testimony, supported by ample documentary evidence, and a detailed written submission, that the tenants owe \$3,134.50 in rent arrears. While a portion of the tenants' rent was paid by a non-profit housing society during the ten-year tenancy, the remainder portion was the tenants' responsibility.

The tenant (H.M.) gave sworn testimony that the landlord has provided varying amounts previously owing, and that it was rather unclear as to what the amount of the arrears were or are. He also testified that the housing society closes their books after a year, and thus were not amenable to paying arrears from more than a year in the past. The housing society advised that it was the tenants' responsibility to deal with the matter.

The tenant also briefly commented upon having to suffer from a lot of floods during the testimony, mold that resulted, and that as a result they may have missed a few things (presumably making rent payments).

The landlord's agent asked if it would be permitted to make a rebuttal, but I explained that based on what I had heard that this would not be necessary.

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 states that a tenant must pay rent when it is due under the tenancy agreement unless the tenant has a right under the Act to deduct all or a portion of the rent. A tenancy agreement may be written or oral (see section 1 definitions in the Act); in this case it was essentially an oral tenancy agreement.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

In this case, the evidence persuades me on a balance of probabilities that the tenants did not pay their portion of the rent when required to under the tenancy agreement. The tenants still owe \$3,134.50 to the landlords as required by section 26 of the Act and the tenancy agreement. Accordingly, pursuant to section 67 of the Act the tenants are hereby ordered to pay this amount to the landlord.

Further, as the landlord was successful in its application, they are entitled to recover the cost of the application filing fee pursuant to section 72 of the Act. In total, the tenants are ordered to pay \$3,234.50 to the landlord.

A monetary order is issued in conjunction with this Decision to the landlord. It is the landlord's responsibility to serve a copy of the monetary order on the tenants.

While the parties are encouraged to find a mutually agreeable and workable payment arrangement (given the tenants' limited financial means), the landlord may enforce the monetary order in the Provincial Court of British Columbia if necessary.

Conclusion

The application is hereby granted.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: August 29, 2022

Residential Tenancy Branch