



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR-S, FF

Introduction

This hearing convened as a result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued to the tenant;
- a monetary order for unpaid rent;
- authority to keep the tenant's security deposit to use against a monetary award and
- to recover the cost of the filing fee.

At the hearing, the landlord's agent (landlord) attended the teleconference hearing. The tenant did not attend the hearing. For this reason, service of the Notice of a Dispute Resolution Hearing (Notice of Hearing) and application was considered.

The landlord confirmed that the tenant was served the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on May 26, 2022. The landlord filed the Canada Post receipt containing the tracking number as proof of service.

Based on the landlord's testimony and evidence, I find the tenant was sufficiently served under the Act and the hearing proceeded in the tenant's absence.

During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural Matters-

The landlord submitted that the tenant has now vacated the rental unit since the dispute began. The landlord said they were not sure when the tenant vacated, as he failed to provide notice. The landlord said they went into the rental unit on July 7, 2022, and saw that it was empty. The landlord confirmed that they no longer needed an order of possession.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and to recover the cost of the filing fee?

Background and Evidence

The landlord filed a written tenancy agreement showing a tenancy start date of April 1, 2022, for a fixed-term through November 30, 2021, monthly rent of \$1,650, due on the first day of the month. The landlord said that they had a security deposit of \$825 on file for the tenant, which had been assigned to them from a previous tenant.

The landlord said that on April 22, 2022, the tenant was served with the Notice, by attaching it to the tenant's door, listing a total unpaid rent of \$3,225 owed as of April 1, 2022. The effective vacancy date listed on the Notice was May 2, 2022. Filed in evidence was a copy of the Notice.

The landlord stated that the tenant did not pay the amount listed on the Notice within 5 days, or at all. In addition, the tenant did not make the monthly rent payment in May, June or July 2022, according to the landlord. The landlord said that the tenant owed the amount of \$8,175 in unpaid monthly rent, through July 2022. The landlord filed a tenant ledger sheet showing the accounting for this tenancy, through May 2022.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. When a tenant fails to pay rent pursuant to the terms of the tenancy agreement, the landlord may serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, as here.

The Notice sets out for the benefit of the tenant that the Notice would be cancelled if the rent was paid within five (5) days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution. I have no evidence before me that the tenant applied to dispute the Notice.

I find the landlord submitted sufficient, unopposed evidence to prove that the tenant was served the Notice, owed the rent listed, did not pay the outstanding rent, or file an application for dispute resolution in dispute of the Notice within five days of service.

I find it reasonable that the landlord be allowed to amend their original monetary claim in their application, to account for further unpaid rent as the tenant vacated the rental unit sometime in July 2022, without paying rent.

I find that the landlord submitted sufficient, unopposed evidence to prove that the tenant owed a total amount of unpaid rent of **\$8,175** and, as a result, I find the landlord is entitled to a monetary award in that amount.

I grant the landlord recovery of their filing fee of **\$100**, due to their successful application.

I find the landlord has established a monetary claim of **\$8,275**, for the unpaid monthly rent and the filing fee, as noted above.

At the landlord's request, I order the landlord to keep the tenant's security deposit of \$825 to partially satisfy the landlord's monetary award of \$8,275.

I grant the landlord a **monetary order (Order)** pursuant to section 67 of the Act for the balance due, in the amount of **\$7,450**.

Should the tenant fail to pay the landlord this amount without delay after being served the Order, the Order may be filed in the Provincial Court of British Columbia (Small

Claims) for enforcement as an Order of that Court. The tenant is **cautioned** that costs of such enforcement are subject to recovery from the tenant.

Conclusion

The landlord's application for a monetary order for unpaid rent and the filing fee has been granted in the above terms.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 20, 2022

Residential Tenancy Branch