



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR MNR-DR MNDC-L FFL

Introduction

This matter originally proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (Act) and dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order of possession based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice), for a monetary order for unpaid rent or utilities, for monetary compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee.

On October 20, 2022, an adjudicator adjourned the matter to a participatory hearing which was held on November 14, 2022, at 11:00 a.m. Pacific Time. A landlord agent, SSS (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. The Interim Decision dated October 20, 2022 should be read in conjunction with this decision.

As the tenants did not attend the hearing, service of the Reconvened Notice of a Dispute Resolution Proceeding dated October 20, 2022 (Notice of Reconvened Hearing), application and documentary evidence (Hearing Package) were considered. The agent testified that the Hearing Package was served on the tenants via email. In support that the landlord had permission to serve the tenants by email was Residential Tenancy Branch (RTB) Form #51 – Address for Service, in which the tenants provide their email for service in that document. Given the above, I find the tenants to be sufficiently served by email, three days after the email was sent to the tenants pursuant to section 44 of the Residential Tenancy Regulation.

Preliminary and Procedural Matters

At the outset of the hearing, the agent confirmed that the landlord no longer required an Order of Possession as the tenants vacated the rental unit on November 9, 2022. As a result, I will not consider the landlord's application for an Order of Possession.

The agent testified that as of the time of the hearing, the monetary claim of the landlord has decreased from \$5,425 to \$2,300. I amend the application as I find that by doing so does not prejudice the respondent tenants as the amended amount is lower than the application amount. This amendment is made pursuant to section 64(3)(c) of the Act.

The agent confirmed the email addresses for both parties. The decision will be sent to both parties by email. Any monetary order, if necessary, will be emailed to the landlord only for service on the tenants.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on August 1, 2021, and monthly rent was \$2,550 per month and due on the first day of each month.

Regarding the 10 Day Notice, the agent provided the 10 Day Notice in evidence. The 10 Day Notice is dated August 4, 2022, and indicates that \$2,550 in rent is owed as of August 1, 2022 and \$1,700 in unpaid utilities is owed as of the same date. The agent stated that the tenants did not dispute the 10 Day Notice.

The landlord is seeking unpaid rent/loss of rent of \$2,300 for a portion of November 2022 rent plus the unpaid port of utilities. The landlord stated that the amount of \$2,300 was negotiated between the parties, which includes the tenants surrendering their \$1,450 in combined deposits, before the filing fee is added. Given the above, the agent is seeking a total monetary order of \$2,400, which includes the filing fee of \$100.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the agent provided during the hearing, and on the balance of probabilities, I find the following.

As the tenants were deemed served with the Hearing Package and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenants. As a result, I find the landlord's application is fully successful in the amount of **\$2,400**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100 as the landlord's application is successful. I have considered the undisputed testimony of the agent and that the application was unopposed by the tenants. I find the tenants breached section 26 of the Act by failing to pay full November 2022 rent.

Given the above, I grant the landlord a monetary order pursuant to section 67 of the Act, for the amount owing by the tenant to the landlord of **\$2,400**.

Conclusion

The landlord's application is fully successful.

The landlord has been granted a monetary order pursuant to section 67 of the Act, in the amount owing of \$2,400. The landlord must serve the tenants with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division). The tenants are reminded that they can be held liable for all enforcement costs, including court fees.

This decision will be emailed to the landlord and the tenants. The monetary order will be emailed to the landlord only for service on the tenants.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 28, 2022

Residential Tenancy Branch