



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR, MNRL, FFL**

Introduction

On June 10, 2022 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent;
- an order of possession for unpaid rent; and
- an order granting recovery of the filing fee.

The Landlord and the Tenant attended the hearing at the appointed date and time. At the start of the hearing, the Tenant confirmed having received the Landlord’s Notice of Hearing and documentary evidence. As there were no issues raised, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. The Tenant confirmed that they did not submit any evidence in response to the Application.

Preliminary Matters

At the start of the hearing, the parties confirmed that the tenancy has since ended, and that the Landlord has regained vacant possession of the rental unit. As such, the Landlord does not require an Order of Possession and withdrew the claim accordingly.

The hearing continued based on the Landlord’s monetary claim. The parties were given an 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on September 1, 2016. The parties stated they took part in a previous Dispute Resolution Proceeding in which an Arbitrator found that the Tenant is required to pay an additional \$300.00 of rent each month for having an additional occupant, bringing the amount of rent to \$1,648.00 as of February 1, 2022, which is due on the first day of each month. The Tenant paid a security deposit in the amount of \$650.00 and a pet damage deposit in the amount of \$650.00, both of which the Landlord continues to hold. The tenancy ended on July 2, 2022.

The Landlord testified the Tenant did not pay the full amount of rent when due to the Landlord and only made partial payments of rent in February, March, April, and May 2022. The Landlord stated that the Tenant paid no rent in June or July 2022. The Landlord stated that the Tenant has an outstanding balance of rent in the amount of \$4,312.00.

The Tenant confirmed that he did not pay the rent arrears for February, March, April and May 2022 as they related to the previous Arbitrator's decision. The Tenant stated that he did not agree with the decision, therefore, did not pay the Landlord. The Tenant confirmed that he did not pay any rent to the Landlord for June 2022.

The Tenant stated that he did not pay any rent to the Landlord for July 2022 as he vacated the rental unit on July 2, 2022. The Tenant stated that he had texted the Landlord on June 3, 2022 indicating that he would be vacating the rental unit on July 2, 2022.

Analysis

Section 26 of the Act explains that the 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. As I do not have any evidence before me that the Tenant had a right under this Act to deduct any of their rent, I find that the Tenant is in breach of Section 26 of the Act.

I accept that the parties agreed that the Tenant did not pay the full amount of rent due from February to June 2022. While the Tenant did not agree with the previous Arbitrator's decision, I find that the Tenant is still required to adhere to the order made in the previous decision. As such, I find that the Tenant was required to pay \$1,648.00 as of February 1, 2022. I find that the Tenant failed to do so, therefore, the Landlord is entitled to the recovery for the loss of rent for these months.

According to Section 45 (1) of the *Act*, a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that;

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) 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 this case, the parties agreed that the Tenant provided the Landlord with his notice to end tenancy on June 3, 2022 before the tenancy ended on July 2, 2022. I find that the Tenant's notice served on June 3, 2022 would take effect on June 30, 2022, which is the day before the day in the month that rent is payable. One month from that date would make a vacate date of July 31, 2022. I find that the Tenant ended the tenancy early, without providing the Landlord with proper notice pursuant to Section 45(1) of the *Act*. I find that the Tenant owes the Landlord rent for July 2022 as well.

In light of the above, I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of \$4,312.00. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord retain the security and pet damage deposits 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 \$3,112.00, which has been calculated as follows:

Claim

Amount

Loss of rent:	\$4,312.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	<i>-\$1,300.00</i>
TOTAL:	\$3,112.00

Conclusion

The Landlord is granted a monetary order in the amount of \$3,112.00. The monetary order should be served to the Tenant as soon as possible and 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: November 10, 2022

Residential Tenancy Branch