



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. On September 4, 2022 the tenant applied for:

- an order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, dated September 1, 2022 (the 10 Day Notice); and
- an order to suspend or set conditions on the landlord's right to enter the rental unit.

The hearing was attended by the landlord but not the tenant. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; she was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified that she served her responsive evidence on the tenant by email on January 10, 2022, as the tenant vacated the rental unit without leaving a forwarding address. Considering Rule 3.16, as there is no RTB-51 Address for Service in evidence to demonstrate the parties agreed to service by email, and the landlord has not provided proof the tenant received her responsive evidence, I have not considered it in my decision.

Preliminary Matters

The landlord's submissions indicate that they loaned the tenant \$3,000.00. At the hearing, the landlord testified she was seeking to recover this amount. I declined to hear on the matter as recovery of a personal loan is not a circumstance contemplated by the Act.

The landlord testified that as the tenant vacated the rental unit on November 30, 2022, the landlord was not seeking an order of possession, only a monetary order for unpaid rent.

Based on the landlord's affirmed testimony that the tenant has vacated the rental unit, I dismiss the tenant's application. The remainder of the decision will consider whether the landlord is entitled to a monetary order for unpaid rent.

Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord provided the following particulars regarding the tenancy. It began March 15, 2022 for a fixed term to March 14, 2023; the tenant vacated the unit on November 30, 2022; rent was \$3,700.00, due on the 15th of the month; and the tenant did not pay the security deposit.

A copy of the tenancy agreement was submitted as evidence by the tenant. It indicates rent was \$3,700.00. The landlord testified that the rent charged on March 15, 2022 was \$2,700.00 because the tenant rented only the upper part of the unit during the first month of the tenancy.

The landlord testified that the tenant did not pay any rent during the tenancy, as follows:

Date rent due	Rent owing	Rent paid	Monthly outstanding
March 15, 2022	\$2,700.00	\$0.00	\$2,700.00
April 15, 2022	\$3,700.00	\$0.00	\$3,700.00
May 15, 2022	\$3,700.00	\$0.00	\$3,700.00
June 15, 2022	\$3,700.00	\$0.00	\$3,700.00
July 15, 2022	\$3,700.00	\$0.00	\$3,700.00
August 15, 2022	\$3,700.00	\$0.00	\$3,700.00
September 15, 2022	\$3,700.00	\$0.00	\$3,700.00
October 15, 2022	\$3,700.00	\$0.00	\$3,700.00
November 15, 2022 (tenant vacated Nov 30)	\$1,850.00	\$0.00	\$1,850.00
Total			\$30,450.00

Analysis

Section 26(1) states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the Regulation, or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

I find that the tenancy agreement required the tenant to pay rent in the amount of \$3,700.00 on the 15th of the month. I accept the testimony of the landlord that rent for the first month of the tenancy was \$2,700.00.

I accept the landlord's undisputed affirmed testimony that the tenant did not pay rent during the tenancy, from March 15, 2022 to November 30, 2022.

Based on the landlord's testimony, I find the tenancy ended on November 30, 2022, the date the tenant vacated the rental unit.

[Residential Tenancy Policy Guideline 3](#). *Claims for Rent and Damages for Loss of Rent* states:

If the tenant has vacated or abandoned the rental unit prior to the date of the dispute resolution hearing, the date the tenancy ended is the date that the tenant vacated or abandoned the rental unit. Only rent owing up until this date would constitute unpaid rent for the purpose of section 55(1.1) of the RTA.

Therefore, I find the landlord is entitled to recover unpaid rent in the amount of \$28,600.00 for March 15, 2022 to November 14, 2022 ($2,700 + 7 \times 3,700$) and \$1,850.00 for November 15–30, 2022 ($3,700/30 \times 15 = 1,850$), for a total of \$30,450.00.

I find the landlord is entitled to a monetary order for \$30,450.00.

I am concerned that this tenant habitually fails to meet the financial obligations of a tenancy agreement; applied intense pressure to the landlord to loan the tenant \$3,000.00, promising to repay the money along with a "bonus" which increased over time from \$1,000.00 to \$3,000.00; and also tried to convince the landlord to co-sign a loan with the tenant. Therefore, I am sending a copy of this decision to my manager. My manager will review this decision and if they are of the opinion that these circumstances could reasonably lead to administrative penalties, then they will send a copy of this decision along with any other relevant materials from the dispute resolution files in

which the tenant is or has been a party to the Compliance and Enforcement Unit. This separate unit of the Residential Tenancy Branch is responsible for administrative penalties that may be levied under the Act. They have the sole authority to determine whether to proceed with a further investigation into this matter and the sole authority to determine whether administrative penalties are warranted in these circumstances. After any dispute resolution materials are sent, neither I nor my manager play any role in their process and, if the Compliance and Enforcement Unit decides to pursue this matter, they do not provide me or my manager with any information they may obtain during their process.

Before any administrative penalties are imposed, a person will be given an opportunity to be heard. While the Compliance and Enforcement Unit can review the contents of dispute resolution files in which the tenant is or has been a party, they can also consider additional evidence that was not before me or other arbitrators. They are not bound by the findings of fact I or other arbitrators have made in our decisions.

Any further communications regarding an investigation or administrative penalties will come directly from the Compliance and Enforcement Unit.

Conclusion

The landlord is granted a monetary order in the amount of \$30,450.00. The monetary order must be served on the tenant. The monetary 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: January 27, 2023

Residential Tenancy Branch