



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1307534 B.C. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on May 3, 2022 seeking an order to recover the money for rent amounts owing, other money owed, and the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on January 12, 2023. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the telephone conference call hearing; the Tenant did not attend.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof that they served the document in a verified manner allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Landlord stated they served the Notice of Dispute Resolution Proceeding to the Tenant via registered mail. The receipt and registered mail label they provided (with tracking # information) shows delivery on May 14, 2022, after they received the Notice of Dispute Resolution Proceeding from the Residential Tenancy Branch. This was to the rental unit where the Tenant resided on that date prior to their move-out on May 31, 2022. This included the documents they prepared in evidence.

I accept the Landlord’s evidence that they served the Notice, including their evidence, to the Tenant with registered mail. This is sufficient for the purposes of the *Act*. Based on

the submissions of the Landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*. The hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for recovery of rent, and/or other money owing, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. Both parties signed the tenancy agreement on February 1, 2022 for the fixed-term tenancy ending on February 28, 2023. The monthly rent amount was \$1,500, payable on the 1st of each month.

The agreement notes a \$50 charge for parking, payable each month with the rent.

An Addendum to the Agreement, signed jointly by the parties, specifies in paragraph 1 that there was a service charge of \$25 for late payments and returned cheques.

In the hearing, the Landlord set out that the tenancy ended on May 31, 2022. The Landlord received an Order of Possession in another Residential Tenancy Branch hearing process. By mid-May, the Tenant made no move to pay that month's rent, and left prior to doing so.

The Landlord claims full rent for the month of May 2022. This was based on the Tenant overholding in the rental unit, without paying for that month after service of an Order of Possession. This amount, including the parking fee and late service charge, \$1,575.

Adding a \$100.00 Application filing fee for this hearing, the total amount of the Landlord's claim is \$1,675.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation for damage or loss the Applicant (here, the Landlord) has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

I find the Landlord showed with evidence that the tenancy ended with their service of an Order of Possession in May 2022. I accept the Landlord's testimony that the Tenant overstayed for the month of May without paying rent. This means the Tenant breached the *Act* by occupying the rental unit illegally. I so grant the full amount of rent owing to the Landlord, including the late service charge that appears in the Addendum that the Tenant signed. This amount is \$1,575.

Because the landlord was successful in their Application, I grant the reimbursement of the \$100 Application filing fee in full.

Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$1,675 for compensation set out above. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Small Claims Division of the Provincial Court where it will be enforced as an Order of that Court.

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

Dated: January 12, 2023

Residential Tenancy Branch