



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. On August 11, 2022, the landlord applied for

- an order of possession, having issued a 10 Day Notice to End Tenancy for Unpaid Rent, dated July 31, 2022 (the 10 Day Notice);
- a monetary order for unpaid rent, having served the 10 Day Notice; and
- the filing fee.

The landlord attended the hearing; the tenants did not. The landlord was given a full opportunity to be heard, to present 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 she served the Notice of Dispute Resolution Proceeding (NDRP) and evidence on each of the tenants by email on September 29, 2022, and provided copies of the RTB-51 Address for Service form, documenting that each tenant agreed to service by email.

Based on the landlord's affirmed testimony and documentary evidence, I find the tenants served in accordance with section 89 of the Act, and deem the documents received by each of the tenants on October 2, 2022, in accordance with section 44 of the Residential Tenancy Regulation (the Regulation).

Preliminary Matter

The landlord testified that as the tenants vacated the rental unit on September 2, 2022, the landlord had possession of the unit and was seeking only unpaid rent, not an order of possession. Therefore, I dismiss the landlord's claim for an order of possession.

Issues to be Decided

- 1) Is the landlord entitled to a monetary order for unpaid rent?
- 2) Is the landlord entitled to the filing fee?

Background and Evidence

The landlord provided the following particulars regarding the tenancy. It began June 1, 2020, and the tenants vacated the unit on September 2, 2022; rent was \$2,000.00, due on the first of the month; and the tenants paid a security deposit of \$1,000.00, which the landlord still holds.

A copy of the tenancy agreement was submitted as evidence. It indicates that rent was \$2,000.00 and that the tenants paid a security deposit of \$1,100.00.

The landlord submitted as evidence a Direct Request Worksheet, recording incomplete or unpaid rent payments for June, July, and August 2022.

The landlord testified that rent was paid and owing as follows:

Month	Rent owing	Rent paid	Monthly Outstanding
June 2022	\$2,000.00	\$0.00	\$2,000.00
July 2022	\$2,000.00	\$500.00	\$1,500.00
August 2022	\$2,000.00	\$0.00	\$2,000.00
Total			\$5,500.00

The landlord testified she is not seeking to recover any rent for September 2022.

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 this 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 tenants to pay rent in the amount of \$2,000.00 on the first of the month.

Based on the landlord's testimony, I find the tenancy ended on September 2, 2022, the date the tenants vacated the rental unit.

I accept the landlord's undisputed affirmed testimony and documentary evidence on unpaid rent, noting that the landlord is not seeking to recover any unpaid rent for September 2022

Therefore, I find the landlord is entitled to unpaid rent in the amount of \$5,500.00.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in her application, I order the tenants to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

In accordance with section 72 of the Act, I allow the landlord to retain \$1,000.00 of the tenants' security deposit in partial satisfaction of the amount owing.

I find the landlord is entitled to a monetary order as follows:

Unpaid rent	\$5,500.00
Filing fee	\$100.00
Security deposit	-\$1,000.00
Monetary order	\$4,600.00

Conclusion

The landlord is granted a monetary order in the amount of \$4,600.00. The monetary order must be served on the tenants. 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: February 02, 2023

Residential Tenancy Branch