



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENINSULA ESTATES HOUSING SOCIETY - SURREY,
BC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing was reconvened from an adjourned hearing originally scheduled for September 8, 2022 in order for the tenants to properly review the landlord's application and evidentiary materials for this hearing.

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- a monetary order for unpaid rent or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

Service of the landlord's application and evidentiary materials was confirmed at the last hearing held on September 8, 2022. The tenants confirmed that they had time to review the materials, and were ready to proceed with the reconvened hearing. The tenant did not submit any written evidence for this hearing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent or money owed?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on February 1, 2021 with monthly rent set at \$1,100.00, payable on the first of the month. The landlord holds a security deposit of \$550.00 for this tenancy.

The landlord testified that they had served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent on January 7, 2022, with an effective date of January 20, 2022 for failing to pay \$3,300.00 in unpaid rent as of January 1, 2022. A copy of the 10 Day Notice was submitted in evidence. The landlord testified that the tenants did vacate the rental unit, and the keys were returned on January 20, 2022. The tenants testified that the unit was vacated by January 17, 2022.

The landlord filed this application as the tenants did not pay the \$3,300.00 in outstanding rent for the months of November 2021 through to January 2022. The landlord submitted a detailed statement of the payments made for this tenancy, which show an outstanding balance of \$3,300.00 for unpaid rent. The landlord is seeking a monetary order for the unpaid rent as well as recovery of the filing fee paid for this application.

The tenant VC testified that the landlord's application referenced \$2,200.00 in outstanding rent, not \$3,300.00. The tenant also testified that they cannot to pay the monetary order requested due to financial hardship. The tenant further argued that the landlord should provide a rent reduction for deficiencies in the rental unit and breach of the tenant's right to quiet enjoyment during this tenancy.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

- 26** (1) A 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.

I have reviewed the evidence and testimony before me, and I find that although the tenants felt that they were entitled to deduct a portion of the rent, the tenants have not provided any evidence to support that they had the right to deduct any rent as allowed under the *Act*. I do not find that the tenants have established that there were any emergency repairs performed or required that would justify a rent reduction, nor do I find that the tenants were in possession of any order by an Arbitrator allowing them to deduct any rent.

I find that the landlord's application clearly stated that they were applying to recover \$3,300.00 in unpaid rent for this tenancy. I am satisfied that the landlord had provided detailed evidence to support that the tenants have not made any payments towards this outstanding amount. Although the tenants dispute the amount of rent that is outstanding, I do not find the tenants' rebuttal to be supported in evidence, including any proof of any payments made towards the outstanding balance. I find that the tenants vacated the rental unit without paying the outstanding rent for this tenancy. Accordingly, I find that the landlord is entitled to recover \$3,300.00 in outstanding rent for this tenancy.

As the landlord was successful in their application, I am allowing the landlord to recover the filing fee from the tenants.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit plus applicable interest in satisfaction of the monetary awards granted in this decision. As per the RTB Online Interest Tool found at <http://www.housing.gov.bc.ca/rtb/WebTools/InterestOnDepositCalculator.html>, over the period of this tenancy, \$1.23 is payable as interest on the tenants' security deposit from the beginning of this tenancy until the date of this decision, February 11, 2023.

Conclusion

I issue a Monetary Order in the amount of \$2,848.77 in the landlord's favour under the following terms:

Item	Amount
Unpaid Rent	\$3,300.00
Filing Fee	100.00
Less security deposit and interest	-551.23
Total Monetary Order to Landlord	\$2,848.77

The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 11, 2023

Residential Tenancy Branch