



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes Tenant: AAT, LRE, LAT, RPP, AS, OLC, FFT
Landlord: MNRL, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear crossed applications regarding a tenancy.

The tenant applied on November 25, 2022 for:

- an order for the landlord to allow access to the unit for the tenant or their guests;
- an order to suspend or set conditions on the landlord's right to enter the unit;
- authorization to change the locks to the rental unit;
- an order for the landlord to return the tenant's personal property;
- an order for the tenant to be allowed to assign or sublet the unit;
- an order for the landlord to comply with the Act, Regulation, or tenancy agreement; and
- recovery of the filing fee.

The landlord applied on February 25, 2023 for:

- recovery of unpaid rent, utilities, or both; and
- recovery of the filing fee.

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

The landlord testified that as the tenant provided no forwarding address and had blocked the landlord's communication by email, the landlord served the tenant the Notice of Hearing and evidence on March 21, 2023 by text message. The landlord submitted as evidence images of the texts, along with a text of the tenant

acknowledging receipt of the documents on March 22, 2023. I find the dispute resolution proceeding package sufficiently served on the tenant on March 21, 2023, pursuant to section 71 of the Act, and find them received by the tenant on March 22, 2023, as evidenced by the tenant's text to the landlord on that day. As the tenant had submitted an application that was crossed with the landlord's, the tenant would also have been provided with the details of the hearing by the Residential Tenancy Branch.

Preliminary Matter

As the tenant did not attend the hearing, I dismiss their claims with leave to reapply, with the exception of the claim to recover the filing fee, which is dismissed without leave.

Issues to be Decided

- 1) Is the landlord entitled to unpaid rent and utilities?
- 2) Is the landlord entitled to the filing fee?

Background and Evidence

The landlord provided the following particulars regarding the tenancy. It began August 8, 2022; rent was \$1,750.00, due on the first of the month; and the tenant did not pay a security or pet damage deposit. The landlord testified there was no written tenancy agreement. The landlord testified that per the verbal tenancy agreement between the parties, hydro was included in the rent.

A Monetary Order Worksheet is submitted as evidence, noting amounts owing for rent and hydro.

The landlord testified the tenant owes rent as follows:

| Month | Rent Owed | Rent paid | Monthly Outstanding |
|---------------|------------|-----------|---------------------|
| December 2022 | \$1,750.00 | \$250.00 | \$1,500.00 |
| January 2023 | \$1,750.00 | \$0.00 | \$1,750.00 |
| February 2023 | \$1,750.00 | \$0.00 | \$1,750.00 |
| March 2023 | \$875.00 | \$0.00 | \$875.00 |

The landlord testified that the rent owing for December 2022 was reduced by \$250.00 because the tenant had done work in exchange for part of the rent. The landlord

testified they are seeking a prorated rent amount of \$875.00 for March 2023 because the tenant gave notice to vacate on February 15, 2023. A text message from the tenant, dated February 15 is submitted in support, stating that he will be moving out on February 28.

The landlord testified that they seek to recover amounts for hydro because the tenant's hydro consumption was excessive. The landlord submitted documentary evidence in support.

Analysis

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement.

Section 45 provides that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and 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. As in this tenancy rent was due on the first of the month, in order to provided notice in compliance with the Act for the tenancy to end on February 28, 2023, the tenant would have had to provide notice on January 31, 2023.

Based on the landlord's affirmed undisputed testimony, I find the tenant did not pay rent as required by the Act and the tenancy agreement for December 2022, and January to March 2023. I further find the tenant did not provide notice to end the tenancy as required by the Act, so owes the landlord the full month's rent for March 2023.

I find the tenant owes the landlord unpaid rent as follows:

| Month | Rent | Rent paid | Monthly Outstanding |
|---------------|------------|-----------|---------------------|
| December 2022 | \$1,750.00 | \$250.00 | \$1,500.00 |
| January 2023 | \$1,750.00 | \$0.00 | \$1,750.00 |
| February 2023 | \$1,750.00 | \$0.00 | \$1,750.00 |
| March 2023 | \$1,750.00 | \$0.00 | \$1,750.00 |
| Total | | | \$6,750.00 |

As the landlord testified that hydro was included in the rent, I decline to award any amount for hydro.

As the landlord was successful in their application, I find they are entitled to recover the filing fee from the tenant, under section 72 of the Act.

The landlord is entitled to a monetary order for \$6,850.00, comprising \$6,750.00 for unpaid rent and \$100.00 for the filing fee.

In closing, the parties are advised that section 13 of the Act states that a landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.

Conclusion

The tenant's application is dismissed.

The landlord is granted a monetary order in the amount of \$6,850.00 for unpaid rent and recovery of the filing fee. 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: May 01, 2023

Residential Tenancy Branch