



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MNRL

Introduction

This hearing was scheduled to convene at 9:30 a.m. on July 11, 2023 concerning an application made by the landlords seeking an order of possession for a mutual agreement to end the tenancy and for a monetary order for unpaid rent or utilities.

Both named landlords attended the hearing, accompanied by 2 other family members, for translation purposes, one of whom acted as agent for the landlord. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlords' agent testified that the tenant was served with the Notice of Dispute Resolution Proceeding and all evidence by registered mail on April 14, 2023, and has provided a Canada Post tracking document to prove this service. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlords' agent advised that the tenant has vacated the rental unit, and the house has been sold. Therefore, I dismiss the landlords' application for an order of possession.

Issue(s) to be Decided

The issue remaining to be decided is: have the landlords established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlords' agent testified that this fixed-term tenancy began on August 26, 2018 and reverted to a month-to-month tenancy which ultimately ended on April 15, 2023.

Rent in the amount of \$2,750.00 was payable on the 1st day of each month. A copy of the first and last pages of the tenancy agreement have been provided for this hearing, as well as copies of 2 Shelter Information documents.

Initially there were 2 tenants (RH and AH) occupying the single family house with a separate basement, who were related to each other, and RH paid a security deposit in the amount of \$275.00 and AH paid a security deposit in the amount of \$1,100.00, for a total of \$1,375.00, which is still held in trust by the landlords, and no pet damage deposit was collected.

In October or November, 2022 the tenant (RH) told the landlords' agent that the tenant (AH) had moved out. The landlords' agent told the tenant that he had to move out as well, but the tenant claimed to be a cancer patient. He continued to use that, and the landlords' agent had to take action for the landlords; the tenant was very aggressive.

When tenant AH moved out, the remaining tenant refused to leave and needed time to move out. The parties signed a Mutual Agreement to End Tenancy on January 25, 2023 effective February 15, 2023, and a copy has been provided for this hearing. However, no rent was paid for the months of December, 2022 or January, February, March, or April, 2023. The landlords claim \$12, 375.00 for 4 ½ months to April 15, 2023.

The landlords have provided a Monetary Order Worksheet setting out the following claims totaling \$15,000.00:

- \$11,000.00 for monthly payments for January, February and March;
- \$4,000.00 for leaving payment for the Mutual Agreement to End Tenancy.

The tenant started to threaten the landlords and said that the landlords had to pay the tenant \$6,000.00 to leave. The parties had a written agreement made, and a copy has been provided for this hearing. In January, 2023, the landlords paid the tenant \$4,000.00 to leave by mid-February, but the tenant didn't leave until April. The landlords did not pay the other \$2,000.00, which the tenant demanded when he moved out. The parties also had an agreement that 1 month of rent would be forgiven if the tenant moved out by February, 2023 which is why the claim doesn't include December's rent. The tenant didn't leave, and the landlords claim the unpaid rent from December through to April 15, 2023.

The tenant has not provided the landlords with a forwarding address in writing, and has not served the landlords with an Application for Dispute Resolution claiming the security deposit.

Analysis

I have reviewed the portions of the tenancy agreement and the Shelter Information documents and I am satisfied that rent in the amount of \$2,750.00 was payable on the 1st day of each month. I have also reviewed the Mutual Agreement to End Tenancy and the subsequent agreement made between the parties. I accept the undisputed testimony of the landlords' agent that the tenant agreed to move out, on condition of getting cash from the landlords, but didn't move out. Therefore, I find that the landlord has established a monetary claim of \$12,375.00.

Where a landlord causes a tenant to vacate a rental unit for use of the landlord, the landlord must give the tenant notice to end the tenancy in the approved form and pay compensation to the tenant in the amount that is equivalent to one month's rent payable under the tenancy agreement, not \$4,000.00 or \$6,000.00. Further, there is no evidence that the landlord served a notice to end the tenancy for landlord's use of property, but the tenancy ended after one of the tenants vacated. Where a tenancy ends for one of the tenants, it ends for all of the tenants.

Therefore, I find that the landlords have established a monetary claim of \$4,000.00.

Since the landlords have been successful with the application the landlords are also entitled to recovery of the \$100.00 filing fee.

I grant a monetary order in favour of the landlords as against the tenant in the amount of \$16,475.00. The tenant must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

The landlords' agent testified that the tenant has not provided a forwarding address in writing. If the tenant fails to do so within 1 year after the tenancy ended, the landlords may keep the security deposit.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$16,475.00.

This order is final and binding and may be enforced.

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: July 17, 2023

Residential Tenancy Branch