



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This matter was convened to address an Application for Dispute Resolution, filed by the Landlords on January 2, 2023. The Landlords sought the following relief, pursuant to the Residential Tenancy Act (the Act):

- a monetary order for unpaid rent or utilities;
- a monetary order for compensation for monetary loss or other money owed;
- an order permitting the Landlords to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlords and the Tenant attended the hearing and provided affirmed testimony.

On behalf of the Landlords, SML testified that OLL served the Notice of Dispute Resolution Proceeding package on the Tenant in person on January 9, 2023, which service was witnessed by MA, a neighbour. A signed statement from MA was submitted in support. The Tenant testified she remembered OLL coming to the door with another individual and delivering an envelope. I find these documents were served on and received by the Tenant on January 9, 2023, in accordance with the Act.

The Tenant confirmed she did not submit documentary evidence in response to the application.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Landlords entitled to a monetary order for unpaid rent?
2. Are the Landlords entitled to a monetary order for compensation for monetary loss or other money owed?
3. Are the Landlords entitled to retain the security deposit?
4. Are the Landlords entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy began on January 1, 2022, and that the Tenant moved out of the rental unit on March 12, 2023. The parties agreed that rent of \$1,600.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$800.00, which the Landlords hold.

First, the Landlords claim for unpaid rent. On behalf of the Landlords, SML testified that the Tenant owes \$4,460.00 in unpaid rent. In reply, the Tenant testified that she has had difficulty paying rent due to health concerns that have impacted her employment and acknowledged that she owes this amount.

Second, the Landlords claim \$100.00 for in recovery of the filing fee paid to make an application for dispute resolution by direct request. In a decision dated February 1, 2023, an adjudicator determined: "As the landlords were not successful in this application, I find the landlords are not entitled to recover the \$100.00 filing fee paid for this application." The file number of the related proceeding is included above for ease of reference.

Finally, the Landlords claim \$100.00 in recovery of the filing fee paid to make this application, and request and order permitting them to retain the security deposit in partial satisfaction of the claim.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

With respect to the Landlords' claim for unpaid rent, section 26(1) of the Act confirms that a tenant must pay rent when 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.

In this case, I find the Landlords are entitled to a monetary award for unpaid rent in the amount of \$4,460.00. This amount was agreed to by the Tenant during the hearing.

With respect to the Landlords' request for \$100.00 in recovery of a filing fee paid for a direct request proceeding, I find a decision was made with respect to the filing fee in that proceeding and cannot be considered again. This aspect of the Landlords' application is dismissed without leave to reapply.

Having been partially successful, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the application. I also find it appropriate to order that the Landlords may retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I grant the Landlords a monetary order in the amount of \$3,760.00, which has been calculated as follows:

Claim	Allowed
Unpaid rent:	\$4,460.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$800.00)
TOTAL:	\$3,760.00

Conclusion

The Landlords are granted a monetary order in the amount of \$3,760.00. 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: September 26, 2023

Residential Tenancy Branch