



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, MNDCL, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on November 23, 2023 by way of conference call concerning an application made by the landlord seeking an order of possession and a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the security deposit or pet damage deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent, who gave affirmed testimony and provided evidentiary material in advance of the hearing. 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 landlord's agent testified that the tenant was served with the Notice of Dispute Resolution Proceeding and all other required documents, including the landlord's evidentiary material by registered mail on October 21, 2023 and has provided a Canada Post cash register receipt bearing that date and a tracking number. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlord's agent advised that the tenant vacated the rental unit on November 20, 2023 and the landlord has possession. Therefore, I dismiss the landlord's application for an order of possession.

The landlord's agent also advised that some of the evidence uploaded to the Residential Tenancy Branch site was uploaded in error, and does not involve this tenant. The landlord makes only a monetary claim for the unpaid rent, and I dismiss the

landlord's claim for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, as withdrawn.

Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on May 1, 2023, and the tenant vacated without notice to the landlord on November 20, 2023. There is no written tenancy agreement, however rent in the amount of \$1,500.00 was payable on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is 1 of 2 basement suites, and the landlord resides in the upper level of the home.

The tenant failed to pay rent in full for the month of August, 2023, having paid only \$1,000.00. No rent has been paid since and the tenant is currently in arrears of rent the sum of \$5,000.00 for part of August and all of September, October and November, 2023. The landlord claims that amount and to keep the \$500.00 security deposit in partial satisfaction.

The landlord served the tenant with a 10 Day Notice to End Tenancy For Unpaid Rent or Utilities by registered mail on October 2, 2023, and a copy has been provided for this hearing. It is dated October 2, 2023 and contains an effective date of vacancy of October 15, 2023 for unpaid rent in the amount of \$3,500.00 that was due on October 1, 2023.

The tenant has not served the landlord with an application disputing the 10 Day Notice to End Tenancy For Unpaid Rent or Utilities or for recovery of the security deposit. The tenant has not provided the landlord with a forwarding address.

Analysis

I have reviewed the evidence relevant to this application, and I accept the undisputed testimony of the landlord's agent that the tenant failed to pay all of August, 2023 rent, leaving a balance of \$500.00 outstanding. I also accept that the tenant paid no rent for September, October or November, 2023 and vacated the rental unit on November 20, 2023. Therefore, I find that the landlord is entitled to recover \$5,000.00 from the tenant.

I order that the landlord keep the \$500.00 security deposit in partial satisfaction and I find that the landlord is entitled to a monetary order for the balance of \$4,500.00.

Since the landlord has been partially successful with the application, the landlord is also entitled to recover the \$100.00 filing fee from the tenant.

I grant a monetary order in favour of the landlord as against the tenant in the amount of \$4,600.00. 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.

Conclusion

For the reasons set out above, the landlord's application for an order of possession is hereby dismissed.

The landlord's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed, as withdrawn by the landlord.

I hereby order the landlord to keep the \$500.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$4,600.00.

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: November 23, 2023

Residential Tenancy Branch