

## **DECISION**

### **Introduction**

This hearing dealt with the Landlord's and Tenant's Applications under the *Residential Tenancy Act* (the "Act").

The Landlord applied for:

- a Monetary Order for unpaid rent
- authorization to retain the Tenant's security deposit in partial satisfaction of the Monetary Order requested
- authorization to recover the filing fee for this application from the Tenant

The Tenant Applied for:

- a Monetary Order for the return of all or a portion of their security deposit
- authorization to recover the filing fee for this application from the Landlord

The Tenant acknowledged being served with the Landlord's hearing package and evidence by registered mail on March 23, 2023. The Landlord acknowledged being served with the Tenant's evidence in response to their claim. I find the Tenant failed to serve the hearing package and evidence for their application to the Landlord.

### **Preliminary Matter**

The Tenant failed to serve their application hearing package and evidence to the Landlord. The Landlord's application includes a claim against the Tenant's security deposit, so the dispute about the Tenant's security deposit will be dealt with conclusively in this decision.

For these reasons, the Tenant's application for a Monetary Order for the return of all or a portion of their security deposit, and authorization to recover the filing fee for this application from the Landlord, are dismissed, without leave to reapply.

### **Issues to be decided**

Is the Landlord entitled to a Monetary Order for unpaid rent?

Is the Landlord entitled to retain the Tenant's security deposit in partial satisfaction of the Monetary Order requested?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

### **Facts and Analysis**

This tenancy began on April 1, 2018, with a monthly rent of \$3623.55, and with a security deposit of \$1750.00. The tenancy ended on March 6, 2023. The Tenant provided their forwarding address to the Landlord on March 6, 2023.

The Landlord testified as follows. The Tenant gave their Notice to end tenancy on February 19, 2023, with an effective date of March 6, 2023. The Tenant did not pay rent on March 1, 2023. The Tenant moved out of the rental unit on March 6, 2023. The Tenant did not pay rent for March 2023. The Landlord made their application to claim the Tenant's security deposit for unpaid rent on March 16, 2023.

The Tenant testified as follows. The Landlord sent the Tenant a letter warning them about possible cause for eviction due to the Tenant's previous renting of the rental unit to third parties through Airbnb. The Tenant felt pressured to move out, so they gave the Landlord their Notice to end tenancy on February 19, 2023. The Tenant moved out on March 6, 2023. The Tenant did not pay rent for March 2023 because they felt the Landlord had pressured and harassed them to move out.

### **Is the Landlord entitled to a Monetary Order for unpaid rent?**

Section 26 of the Act says that a tenant must pay rent. Section 45 of the Act says that a tenant may give their notice to end tenancy with an effective date that is one full month after the date the Notice is given.

Section 67 of the Act says that if damage or loss results from a party not complying with the Act, the regulations or a tenancy agreement, the Arbitrator may order that party to pay compensation to the other party.

Based on the testimony of both parties, I find the Tenant breached the Act and tenancy agreement by not paying rent for March 2023. I find the Tenant did not have a valid reason under the Act to withhold rent. The Tenant did not give one month notice as required under section 45 of the Act. The Tenant occupied the rental unit in March 2023.

For these reasons, I find the Landlord is entitled to a Monetary Order for unpaid rent under section 67 of the Act.

### **Is the Landlord entitled to retain the Tenant's security deposit in partial satisfaction of the Monetary Order requested?**

Section 72(2) of the Act says if the Arbitrator orders a tenant to pay any amount to a landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant.

I find the Landlord is entitled to retain the Tenant's security deposit in partial satisfaction of the Monetary Order for unpaid rent under section 72(2) of the Act.

**Is the Landlord entitled to recover the filing fee for this application from the Tenant?**

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

**Conclusion**

I find the Landlord is entitled to a Monetary Order of \$3623.55 for unpaid rent, and to recover their filing fee of \$100.00 for this application. I Order the Landlord to retain the security deposit of \$1750.00 with interest in partial satisfaction of this debt. I Order the Tenant to pay the Landlord the balance due of **\$1940.33**.

The Landlord must serve this Order to the Tenant as soon as possible. If the Tenant does not pay, this Order may be filed and enforced in the Small Claims Division of the Provincial Court of British Columbia.

<b>Monetary Issue</b>	<b>Granted Amount</b>
Unpaid rent	\$3623.55
Landlord's filing fee	\$100.00
Security Deposit with Interest	- \$1783.22
<b>Total Amount</b>	<b>\$1940.33</b>

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: December 20, 2023

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Residential Tenancy Branch