



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlords: OPR-DR, MNR-DR, FFL
 Tenants: CNC

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the Act).

The Landlords' Application for Dispute Resolution was made on January 11, 2023. The Landlords applied for the following relief, pursuant to the Act:

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- an order granting recovery of the filing fee.

The Tenants' Application for Dispute Resolution was made on November 22, 2022. The Tenants applied for an order cancelling a One Month Notice to End Tenancy for Cause, pursuant to the Act.

The Landlords were represented at the hearing by GB, who provided affirmed testimony. The Tenants did not attend the hearing. As they did not attend the hearing, I find that the Tenants' application is dismissed without leave to reapply.

On behalf of the Landlords, GB testified the Notice of Dispute Resolution Proceeding package was served on the Tenants by registered mail on January 16, 2023. Canada Post registered mail receipts and Proof of Service documents were submitted into evidence in support. Sections 89 and 90 of the Act confirm that documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Tenants are deemed to have received these documents on January 21, 2023.

GB was given an 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.

Preliminary and Procedural Matters

GB testified that the Tenants vacated the rental property on or about January 15, 2023, pursuant to an order of possession granted in support of a settlement agreement reached between the parties on December 15, 2022. Accordingly, GB confirmed that the Landlords do not require an order of possession.

The file number of the related proceeding is included above for ease of reference.

Issues

1. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlords, GB testified that the tenancy began on May 1, 2022. As noted above, the Tenants vacated the rental unit on or about January 15, 2023. During the tenancy, rent of \$2,225.00 per month was due on or before the first day of each month. GB confirmed the Tenants paid a security deposit in the amount of \$1,112.50, which the Landlords hold. A copy of the tenancy agreement was submitted into evidence.

GB confirmed that the Tenants did not pay rent when due on January 1, 2023.

The Tenants did not attend the hearing to dispute the Landlords' evidence.

Analysis

Based on all of the above, the evidence and unchallenged testimony, and on a balance of probabilities, I find:

Section 26 of the Act confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the Landlords complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

In this case, I am satisfied that the Tenants did not pay rent when due on January 1, 2023. IN support, the Landlords submitted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 2, 2023, and a Direct Request Worksheet. Therefore, I find the Landlords have demonstrated an entitlement to a monetary order for \$2,225.00. As the Landlords have been successful, I also find they are entitled to recover the \$100.00 filing fee paid to make the Landlords' application.

Considering the above, I grant the Landlords' a monetary order for \$2,325.00, which is comprised of \$2,225.00 in unpaid rent and \$100.00 in recovery of the filing fee.

Conclusion

The Tenants' application is dismissed without leave to reapply.

The Landlords' request for an order of possession is dismissed without leave to reapply.

The Landlords are granted a monetary order in the amount of \$2,325.00.00. 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: February 10, 2023

Residential Tenancy Branch