



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction

This matter proceeded pursuant to the Landlord's application for dispute resolution made on July 24, 2023, pursuant to the Residential Tenancy Act (the Act). The Landlord requested the following relief:

- an order of possession;
- an order for unpaid rent;
- an order for compensation for monetary loss or other money owed;
- an order that the Landlord be permitted to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing. She was assisted by her son, HZ, and GS, an agent. HZ and GS provided a solemn affirmation at the beginning of the hearing.

HZ testified the Notice of Dispute Resolution Proceeding package was served on the Tenant by registered mail on June 28, 2023, and an amendment which updated the amount of rent outstanding was served on the Tenant by registered mail on or about August 25, 2023. Copies of Canada Post customer receipts were submitted in support. Pursuant to section 71 of the Act, I find these documents were sufficiently served for the purposes of the Act.

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

The Landlord was provided with 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. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to a monetary order for unpaid rent?
3. Is the Landlord entitled to compensation for monetary loss or other money owed?
4. Is the Landlord entitled to retain the security deposit?
5. Is the Landlord entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlord, HZ testified the tenancy began on May 9, 2023, and that the Tenant continues to occupy the rental unit. HZ testified that rent of \$2,500.00 per month is due on the first day of each month. HZ testified the Tenant paid a security deposit of \$1,250.00, which the Landlord holds.

On behalf of the Landlord HZ testified the Tenant has not paid rent when due. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 30, 2023 (the 10 Day Notice). The application indicates the 10 Day Notice was served by attaching a copy to the Tenant's door on June 30, 2023. HZ testified, and the 10 Day Notice confirms, that rent of \$2,500.00 remained unpaid as of June 30, 2023. GS testified the Tenant subsequently made a \$700.00 payment but did not pay rent in full on July 1, August 1, September 1, and October 1, 2023. GS testified that \$11,800.00 remains unpaid.

Analysis

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

Section 26(1) of the Act confirms that a tenant must pay rent when it is 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.

I find the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant's door on June 30, 2023. Pursuant to sections 88 and 90 of the Act, documents served in this manner are deemed to have been received three days later. I find the 10 Day Notice is deemed to have been received on July 3, 2023. Therefore, pursuant to section

46(4) of the Act, the Tenant had until July 8, 2023 to pay rent in full or to dispute the 10 Day Notice. Based on the evidence before me, I find that the Tenant did neither. As a result, pursuant to section 46(5) of the Act, I find the Tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit. Therefore, I find the Landlord is entitled to an order of possession which will be effective two days after it is served on the Tenant.

In addition, I find the Landlord has demonstrated an entitlement to a monetary award of \$11,800.00 for unpaid rent. Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application. In the circumstances, I find it appropriate to order that the Landlord may retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I grant the Landlord a monetary order in the amount of \$10,650.00, which has been calculated as follows:

Claim	Allowed
Unpaid rent:	\$11,800.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$1,250.00)
TOTAL:	\$10,650.00

Conclusion

The Landlord is granted an order of possession which will be effective two days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$10,650.00. 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: October 5, 2023

Residential Tenancy Branch