



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by both the landlords and the tenants.

The landlords seek:

1. A monetary order pursuant to Section 67 in the sum of \$5,800.00;
2. An Order of Possession pursuant to Section 55;
3. An Order to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

The tenants seek:

1. A monetary order pursuant to Section 67 in the sum of \$25,000.00; and
2. An Order seeking to set restrictions on the landlords' right of entry.

I accept the landlord's evidence that the tenants were properly served with the Notice to End Tenancy for unpaid rent by way of registered mail sent October 3, 2012.

Both parties appeared at the hearing of this matter and I therefore accept that both had notice of this hearing and of each other's claims.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Whether the tenants have shown cause that they are entitled to compensation sum of \$25,000.00 and whether they have proven that the landlords' right of entry should be suspended or have conditions set upon that right.

Background and Findings

Order of Possession

The landlords submitted that they have a previous monetary Order issued by the Residential Tenancy Branch on September 5, 2012 for rental arrears in the sum of \$5,477.20 which sum includes August 2012 rent. The landlords say they were not issued an Order of Possession at that time because the Arbitrator found that the landlords had reinstated the tenancy therefore the tenancy did continue. However the tenants continued to fail to pay their rent. The landlord submits that the tenants failed to pay rent due for September or October and the landlord therefore issued a 10 day Notice to End Tenancy on October 3, 2012.

The tenants agree that they have not paid rent for September or October but say that they did not do so because the landlord did not attend to pick it up and has been avoiding them.

Based on the evidence the parties I find that the landlord is entitled to an Order for Possession. There is outstanding rent. The tenants have not made application pursuant to Section 46 seeking to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenants have been deemed to have accepted the end of the tenancy on the date set out in the Notice which is October 13, 2012.

Monetary Order - Landlords

Rental Arrears

Based on the undisputed evidence of the landlord I find that the tenants have not paid rent. I therefore find the landlord is entitled to recovery of the rental arrears and I will award the landlord a monetary Order in the sum of those arrears. I will award the landlord a monetary order for rental arrears in the sum of \$5,800.00 representing \$2,900.00 for each of September and October 2012 with leave to reapply for further rental arrears if necessary.

Tenants' Claims

With respect to the tenants' claims to seeking to set restrictions on the landlords' right of entry as this tenancy is ending, this claim is dismissed.

The tenants are also seeking a monetary award in the sum of \$25,000.00. The tenants say they are seeking this sum because this is the sum the person at the Residential Tenancy Branch told them to seek. The tenants say that the landlord has served them with a monetary Order and have been seeking payment of that Order although it has no due date. The tenants say that the landlord is now harassing them and slandering them via text messages and by putting messages about them on Facebook such that they cannot now secure new rental accommodation. The tenants also say they the landlords have turned off their internet, heat and water and have given out personal information about them such as their names, their ages, the name of their child, the name of their child's school, the make of their car and their house number. The tenants say they have to take their children to one of the tenant's mother's home in Ft. St. John and that "I am going to lose my job because of these actions...".

The tenants have failed to bring sufficient evidence to support the monetary claim they are making as it relates to the loss of services they are claiming or loss of quiet enjoyment of the rental unit. With respect to their claims for damages for slander, defamation and/or information and privacy concerns, the *Residential Tenancy Act* does not have jurisdiction over claims in this regard. These claims are therefore dismissed.

Security Deposit

As I have made an award in favour of the landlords I will allow them to retain the \$500.00 security deposit in partial satisfaction of that award.

Filing Fees

As I have found in favour of the landlords I also find that they are entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Arrears	\$5,800.00
Less Security Deposit (no interest accrued)	-500.00
Total Monetary Award	\$5,350.00

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective two days after service. This is a final and binding Order enforceable as any Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. This Order is payable immediately. This Order is a final and binding Order enforceable as any Order of the Provincial Court of British Columbia.

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 31, 2012.

Residential Tenancy Branch