



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:11 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's spouse representing the landlord and the landlord's agent (the agent) attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord's spouse testified that he handed the male tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on July 12, 2013, while his wife, the landlord, videoed his service of the 10 Day Notice to the tenant. The landlord submitted a written statement confirming the service of the 10 Day Notice to the male tenant on July 12, 2013. The agent testified that she sent both tenants copies of the landlord's dispute resolution hearing package by registered mail on August 9, 2013. She entered into written evidence copies of the Canada Post Tracking Numbers for both registered mailings. She also testified that she has had a number of conversations with the tenant(s). She said that she was certain that they had received the dispute resolution hearing packages and were aware of this hearing. I am satisfied that the landlord has served the above documents to the tenants in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on February 1, 2013. Monthly rent is set at \$875.00, payable by the 3rd of each month. There is no security deposit for this tenancy.

The landlord's spouse testified that the tenants have not made any payments towards this tenancy since receiving the landlord's 10 Day Notice. The landlord's claim for a monetary award of \$2,625.00 included unpaid rent of \$875.00 from July 2013, and \$875.00 for anticipated loss of rent for both August and September 2013. As the tenants have not paid rent for either August or September, these losses are now unpaid rent for both of these months.

Analysis

The tenants failed to pay the July 2013 rent in full within five days of receiving the 10 Day Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by July 22, 2013. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I find that there is undisputed evidence before me that the tenants have not paid rent for July, August or September 2013. I also find it unlikely at this stage that the landlords will be able to locate new tenants who will be able to recover any of the landlord's loss of rent for September 2013. As such, I issue the landlord a monetary award of \$875.00 for each of July, August and September 2013.

As the landlord has been successful in this application, I allow the landlord to recover her \$50.00 filing fee from the tenants.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, losses arising out of this tenancy and the landlord's filing fee:

| Item | Amount |
|---|-------------------|
| Unpaid July 2013 Rent | \$875.00 |
| Unpaid August 2013 Rent | 875.00 |
| Unpaid Rent and Loss of Rent for September 2013 | 875.00 |
| Recovery of Filing Fee for this Application | 50.00 |
| Total Monetary Order | \$2,675.00 |

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: September 13, 2013

Residential Tenancy Branch

