



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associated Property Management (2001) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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 retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:23 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions. The landlord testified that she posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on November 4, 2013. The landlord testified that she sent the tenants a copy of the landlord's dispute resolution hearing package by registered mail on November 20, 2013. She entered into written evidence a copy of the Canada Post Tracking Number and Customer Receipt to confirm this mailing. I am satisfied that the landlord served the above documents and written evidence to the tenants in accordance with the *Act*.

Prior to this hearing, the tenants contacted the Residential Tenancy Branch (RTB) to advise that they had moved out of the rental unit and were no longer interested in pursuing their own application to cancel the landlord's 10 Day Notice. In accordance with their wishes, the RTB cancelled their application for dispute resolution, which was to have been heard at the same time as the landlord's application. As the landlord has not been given the tenants' keys and is uncertain as to whether the tenants have actually removed everything from the rental property, the landlord requested an

immediate Order of Possession, as the landlord was concerned as to whether the pipes might freeze if power had been disconnected.

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 retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This one-year fixed term tenancy commenced on July 1, 2013. Monthly rent is set at \$1,300.00, payable in advance on the first of each month, plus utilities. The landlord entered into written evidence a copy of a tenant rent ledger, which showed that the tenants paid a \$120.00 security deposit on June 17, 2013, and a \$200.00 security deposit as part of their \$1,500.00 rent cheque for July 1, 2013 on June 27, 2013. According to the terms of their Residential Tenancy Agreement, the tenants were to have paid a \$650.00 security deposit and a \$650.00 pet damage deposit. The landlord continues to hold the tenants' \$320.00 security deposit, the only deposit amounts paid by the tenants.

The landlord testified that the tenants have not paid anything further to the landlord since the 10 Day Notice was issued on November 4, 2013, requesting the payment of \$3,220.00 at that time.

The landlord applied for a monetary award of \$3,950.00. The landlord testified that the tenants have paid a total of \$4,260.00 in rent since this tenancy began, comprised of \$1,300.00 on June 27, 2013 (as part of the \$1,500.00 paid that day for rent and towards the security deposit), \$1,400.00 on August 28, 2013, \$700.00 on October 4, 2013, \$600.00 on October 24, 2013, and \$260.00 on October 29, 2013. During the course of this tenancy, the landlord maintained that the rental payments should have totalled \$7,800.00 for the six months from July 2013 until December 2013. The landlord testified that there is currently \$3,540.00 owing in unpaid rent. She also said that there are unpaid utilities and considerable damage in the rental unit.

Analysis

The tenants failed to pay the amount identified as owing in the 10 Day Notice in full within five days of being deemed to have received the 10 Day Notice on November 7, 2013. Although the tenants applied to cancel the 10 Day Notice, they have withdrawn their application and indicated that they have vacated the rental unit. In accordance

with section 46(5) of the *Act*, the tenants' failure to pay the rent owing for this tenancy within five days of November 7, 2013, 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 November 18, 2013. As that did not occur and the tenants have informed the RTB that they have now vacated the rental unit, I find that the landlord is entitled to an immediate 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, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed sworn testimony and written evidence of the landlord, I find that the landlord is entitled to a monetary award of \$3,540.00, the current amount of rent owing for this tenancy. In order to partially satisfy the landlord's monetary award, I order the landlord to retain the tenants' \$320.00 security deposit plus applicable interest. No interest is payable over this period.

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

Conclusion

The landlord is provided with a formal copy of an immediate Order of Possession. 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 and the filing fee and to retain the tenants' security deposit:

Item	Amount
Rent to be paid for this Tenancy (6 months @ \$1,300 = \$7,800.00)	\$7,800.00
Less Rental Payments During this Tenancy {(\$1,500.00 - \$200.00) + \$1,400.00 + \$700.00 + \$600.00 + \$260.00 = \$4,260.00}	-4,260.00
Less Security Deposit (\$120.00 + \$200.00 = \$320.00)	-320.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$3,270.00

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: December 19, 2013

Residential Tenancy Branch

