



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 landlords' 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, damages or loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

A representative for the landlords attended the hearing and was given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenant did not attend the hearing although it continued from 1:30 p.m. to 1:45 p.m.

The representative for the landlords ("the landlord R") provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent ("the 10 Day Notice") was served to the tenants on December 18, 2014 by posting the notice on the rental unit door and placing it in his mailbox for the rental unit, as well. Pursuant to sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on December 21, 2014.

Landlord R gave sworn testimony that he served both tenants with the Application for Dispute Resolution hearing package on January 20, 2015 by registered mail. I accept the landlords' Application for Dispute Resolution hearing package was deemed served January 25, 2015, 5 days after its mailing pursuant to section 89 and 90 of the *Act*.

Issues to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary award for unpaid rent and for damage arising out of this tenancy?

Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

Landlord R gave evidence that the rental agreement for a one year fixed term at the rental townhouse began on October 15, 2014. The rental amount for this unit was established at \$2500.00 payable on the fifteenth of each month. Landlord R provided

sworn, undisputed testimony that he has no security deposit for the rental unit as the tenants' cheque for first month's rent and security deposit were returned indicating insufficient funds.

The landlords applied for an Order of Possession for unpaid rent for the month of November 2014. Landlord R testified that the first month's rent and security deposit were never replaced by the tenants. Landlord R testified that the tenants did not pay rent of \$2500.00 due on November 15th, 2014 nor have the tenants paid any subsequent rent.

The landlords issued a 10 Day Notice to End Tenancy for Unpaid Rent. Landlord R testified that the tenants did not pay the November rent after receiving the 10 Day Notice on December 18, 2014. Landlord R testified that the tenants have not paid rent for October, November, December 2014 or January or February 2015. The landlords applied for an Order of Possession based on unpaid rent.

Landlord R testified that, prior to filing for dispute resolution, he made numerous attempts to contact the tenants by phone and by attending their rental unit but he had no response. He testified that he spoke briefly to the tenants on November 20, 2014 in an attempt to address noise complaints and outstanding rent but there have been no follow-up conversations.

The landlords are also seeking a monetary award of \$10,000.00 for the months of November and December 2014 as well as January and February 2015.

Analysis

The tenants failed to pay the November rent or any outstanding rental amount within five days of receiving the 10 Day Notice to End Tenancy. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice nor have the tenants attending this hearing. In accordance with section 46(5) of the *Act*, the tenants' failure to either pay rental arrears or make an application to dispute this notice within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenants to vacate the premises by December 31, 2015 (effective date on 10 Day Notice). As that has not occurred, I find that the landlords are entitled to a 2 day **Order of Possession** which must be served on the tenants.

I find that the landlords are entitled to receive a monetary order for unpaid rent in November 2014, December 2014, January 2015 and February 2015. Landlord R testified that he will be able to re-rent the unit shortly after the current tenants vacate. I

am issuing the attached **monetary order** that includes the landlords' application for \$10,000.00 in unpaid rent for November 2014, December 2014 and January 2015 as well as February 2015. Landlord R's undisputed sworn testimony is that tenants continue to reside in the rental unit.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application from the tenants.

Conclusion

I am granting the landlords an Order of Possession to be effective two days after notice is served to the tenant(s). If the tenant(s) does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

I issue a monetary Order in favour of the landlords as follows:

Rental Arrears for November 2014	\$2500.00
Rental Arrears for December 2014	2500.00
Rental Arrears for January 2015	2500.00
Rental Arrears for February 2015	2500.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$10,050.00

The landlords are provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders 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: February 12, 2015

Residential Tenancy Branch

