



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAKOLA RNH HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on July 07, 2015. Canada Post tracking numbers were provided by the landlord in documentary evidence for each tenant. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent (the landlord) appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession for unpaid rent?
- Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord testified that this month to month tenancy started on November 01, 2010. Rent for this unit is \$922.00 per month, based on income, and is due on the first day of each month.

The landlord testified that the tenants failed to pay all the rent due for June, 2015. The landlord testified that a 10 Day Notice to End Tenancy for unpaid rent (the Notice) was served upon the tenants on June 18, 2015 by registered mail. The landlord has provided a copy of the Notice in evidence and the Notice has an effective date of June 27, 2015 and states that \$621.00 is outstanding for June, 2015. The landlord testified that no rent has been received by the tenants since the Notice was served. The tenants failed to pay rent for July, August and September, 2015. The landlord seeks permission to amend their application to include unpaid rent for August and September, 2015 as the tenants have continued to live in the rental unit. The total amount of unpaid rent is now \$3,387.00.

The landlord also seeks a Monetary Order to recover the unpaid rent and filing fee of \$50.00. The landlord requests an Order of Possession effective within two days of service upon the tenants.

Analysis

I refer the parties to s 26 of the *Act* which states:

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 am satisfied with the undisputed evidence before me that the tenants have failed to pay rent for June, July, August and September 2015. I refer the parties to the

Residential Tenancy Policy Guidelines #3 which states in part, that in a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. I will allow the landlord to amend the application to include unpaid rent for August and September as the tenants should be aware that rent was due on the first day of each month and failed to vacate the rental unit on the effective date of the Notice. Therefore, the landlord is entitled to recover rent arrears to the sum of **\$3,387.00** pursuant to s. 67 of the *Act*.

As the landlord has been successful in this matter, the landlord is also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a Monetary Order pursuant to s.67 of the *Act* for the balance owing as follows:

Outstanding rent	\$3,387.00
Plus filing fee	\$50.00
Total amount due to the landlord	\$3,437.00

I have reviewed all documentary evidence and accept that the tenants have been served with the Notice to End Tenancy pursuant to section 88 of the *Residential Tenancy Act*. The Notice is deemed to have been received by the tenants on June 23, 2015, five days after it was posted pursuant to s. 90(a) of the *Act*. The Notice states that the tenants have five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay all the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenants are conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the

Notice. As this date has since passed I grant the landlord an Order of Possession effective two days after service upon the tenants, pursuant to section 55 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlords amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,437.00**. The Order must be served on the Respondents. If the Respondents fail to comply with the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service on the tenants. This Order must be served on the Respondents. If the Respondents fail to comply with this Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order 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 09, 2015

Residential Tenancy Branch

