



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by personal delivery on December 16, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlords’ hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants absence.

Issues(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?
2. Are there rent arrears and if so how much?
3. Are the Landlords entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on November 14, 2015 as a 2.5 month fixed term tenancy with an expiry date of February 1, 2016. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenants did not pay a security or pet deposit although both deposits were required in the tenancy agreement.

The Landlord said this tenancy first started to facilitate a sales contract but the sales contract failed so the situation is just a tenancy. The Landlord continued to say that the Tenants did not pay \$900.00 of rent for November, 2015 when it was due and as a result, on December 3, 2015 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated December 2, 2015 on the door of the Tenants’ rental unit. The Landlord said the Tenants paid the November, 2015 rent late and now they have unpaid rent for December, 2015, January, 2016 and February, 2016 in the amount of \$900.00 for each month for a total of \$2,700.00.

The Landlord further indicated that the Tenants are living at the rental unit and the Landlord requested an Order of Possession for as soon as possible if their application is successful.

The Landlord also sought to the \$50.00 filing fee for this proceeding.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on December 6, 2015. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than December 11, 2015.

I find that the Tenants have not paid the overdue rent on time and have not applied for dispute resolution. Consequently, I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenants.

I also find that the Landlord is entitled to recover unpaid rent for December, 2015, January, 2016 and February, 2016 in the amount total amount of \$2,700.00.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$2,700.000	
Recover filing fee	\$ 50.00	
Total:		\$2,750.00
Balance Owing		\$2,750.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants and a Monetary Order in the amount of \$2,750.00 have been issued to the Landlords. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) 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 03, 2016

Residential Tenancy Branch

