



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 was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for unpaid rent and utilities, a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on January 04, 2016 the Application for Dispute Resolution, the Notice of Hearing, and a copy of the Notice to End Tenancy were personally served to each Tenant. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Tenant appeared at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent and/or utilities?

Background and Evidence

The Landlord stated that:

- this tenancy began on May 01, 2008;
- the Tenants agreed to pay monthly rent of \$850.00 by the first day of each month;
- a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of December 29, 2015, was personally served to the Tenant with the initials "R.W." on December 19, 2015; and
- the rental unit has not been vacated.

The Application for Dispute Resolution declares that the Landlord is seeking a monetary Order for \$5,000.00. The Landlord stated that she is only seeking a monetary Order of \$5,000.00 as she did not wish to pay the \$100.00 filing fee that is required when a party makes a claim of over \$5,000.00.

The Landlord stated that the Tenants owe rent in the following amounts:

- January of 2016 - \$570.00
- December of 2015 - \$570.00
- November of 2015 - \$570.00
- October of 2015 - \$170.00
- September of 2015 - \$570.00
- August of 2015 - \$170.00
- July of 2015 - \$570.00
- June of 2015 - \$70.00
- May of 2015 - \$570.00
- April of 2015 - \$570.00
- March of 2015 - \$570.00
- February of 2015 - \$570.00
- January of 2015 - \$570.00
- Overdue rent from 2014 - \$1,874.91

The Landlord stated that the Tenant currently owes \$663.17 in utilities.

Analysis

On the basis of the undisputed evidence, I find that the Tenants entered into a tenancy agreement with the Landlord that required the Tenants to pay monthly rent of \$850.00 by the first day of each month and that the Tenants currently owe \$7,984.91 in rent for the period ending January 31, 2016. I therefore find that the Landlord is entitled to the full amount of her claim for unpaid rent, which is \$5,000.00.

As the Landlord has established the amount of her claim, in full, I find there is no need to consider whether the Tenants also owe for utilities.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy for Unpaid Rent, served pursuant to section 46 of the *Act*, was personally served to the male Tenant on December 19, 2015.

Section 46 of the *Act* stipulates that a tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. I have no evidence that the Tenants exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenants accepted that the tenancy has ended. On this basis I grant the landlord an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenants. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$5,050.00, which is comprised of \$5,000.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$5,050.00. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court 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: February 16, 2016

Residential Tenancy Branch

