



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

The landlords were represented at the hearing by an agent who gave affirmed testimony and called one witness who gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants attended the call. The landlords' agent testified that each of the tenants was individually served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on July 15, 2016, and have provided copies of Registered Domestic Customer Receipts stamped with that date by Canada Post for each of the tenants, and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Have the landlords established a monetary claim as against the tenants for unpaid rent?
- Have the landlords established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of rental revenue?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlords' agent testified that the owner of the rental property purchased the rental property in January, 2016 and the tenants were tenants at that time. The landlords' agent does not know when the tenants moved into the rental unit, however the tenants still reside in the rental unit. Rent in the amount of \$1,000.00 per month is payable on the 1st day of each month. The current landlord obtained a security deposit in the amount of \$600.00 on behalf of the tenants when the rental property was purchased, and no pet damage deposit was paid. The security deposit is still held in trust by the landlords.

The tenants have not paid rent since the rental property was purchased, with the exception of \$200.00 in January, 2016, and the tenants are currently in arrears \$800.00 for January and \$7,000.00 for February to August, 2016. Another agent of the landlords served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and the landlords' agent has not been served with an application for dispute resolution by the tenants disputing the notice.

The landlords' witness testified that he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on May 23, 2016 by posting it to the mailbox at the gate of the rental unit. A copy has been provided and it is dated May 23, 2016 and contains an effective date of vacancy of June 3, 2016 for unpaid rent in the amount of \$4,800.00 that was due on May 1, 2016. The witness has not been served with an application for dispute resolution by the tenants disputing the notice.

The landlords seek an Order of Possession, a monetary order for unpaid rent in the amount of \$7,800.00, loss of rental revenue for September of \$1,000.00, recovery of the \$100.00 filing fee, and an order permitting the landlord to keep the \$600.00 security deposit in partial satisfaction of the claim.

Analysis

The *Residential Tenancy Act* states that once served, or deemed served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, I accept the undisputed testimony of the landlords' agent and the landlords' witness that the tenants were served with the notice on May 23, 2016, which is deemed to have been served 3 days later, and the tenants have not paid the rent and have not disputed the notice. Therefore, I find that the tenants are conclusively presumed to have accepted the end of the tenancy and the landlords are entitled to an Order of Possession.

I also accept the undisputed testimony of the landlords' agent that the tenants have not paid rent in full for January, 2016 and have not paid any rent since. I am satisfied in the evidence before me that the tenants owe the landlords \$7,800.00 for unpaid rent to the end of August, 2016.

With respect to the landlords' claim for loss of rental revenue, given that today is the last day of the month, I am satisfied that the landlords will not be able to re-rent the rental unit before the 15th day of September, and I grant a monetary order in favour of the landlords in the amount of \$500.00.

Since the landlords have been successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee. I order the landlords to keep the \$600.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlords for the difference in the amount of \$7,800.00.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords on 2 days notice to the tenants.

I further order the landlords to keep the \$600.00 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$7,800.00.

This order is final and binding and may be enforced.

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: August 31, 2016

Residential Tenancy Branch