



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, submitted to the Residential Tenancy Branch on July 11, 2016, and amended on August 18, 2016 (the "Application").

The Landlords have applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for unpaid rent; a monetary order for unpaid rent; and an order permitting the Landlords to keep all or part of the security and pet damage deposits.

The Landlords were represented at the hearing by H.E.K. The Tenant attended the hearing on his own behalf. Both parties provided their solemn affirmation.

No issues were raised by the Tenant with respect to service of the Notice of a Dispute Resolution Hearing, dated July 14, 2016, and the evidence upon which the Landlords intended to rely. Documentary evidence confirms both were served by registered mail. I am satisfied the Tenant was duly served with the Notice of a Dispute Resolution Hearing and the Landlords' documentary evidence.

The Tenant did not submit any documentary evidence.

The parties were given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Are the Landlords entitled to an order of possession?

Are the Landlords entitled to a monetary order for unpaid rent?

Are the Landlords entitled to retain all or a portion of the security and pet damage deposits?

Background and Evidence

On behalf of the Landlords, H.E.K. confirmed that a one-year, fixed-term tenancy began on June 1, 2015. At the end of the fixed term, the parties agreed to continue the tenancy until September 30, 2016. Rent in the amount of \$1,800.00 per month is payable on the first day of each month. The Tenant paid the Landlords a security deposit of \$900.00 and a pet damage deposit of \$300.00.

The terms of the tenancy agreement as described by H.E.K. were not disputed by the Tenant.

H.E.K. also provided oral testimony regarding the payment of rent. She confirmed rent has not been paid since May 1, 2016, and that rent in the amount of \$9,000.00 is currently outstanding. However, the Tenant remains in the rental unit.

On behalf of the Landlords, H.E.K. also provided testimony confirming that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was served on the Tenant, in person, on June 27, 2016 (the "10 Day Notice"). During the hearing, the Tenant acknowledged receipt. I am satisfied the Tenant was duly served with the 10 Day Notice on June 27, 2016.

In reply to the Landlords' evidence, the Tenant confirmed that rent has not been paid as alleged. He offered no further explanation.

Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Pursuant to section 46 of the *Act*, a tenant who is served with a notice to end tenancy for unpaid rent or utilities has 5 days to either file an application for dispute resolution or pay the rent. Failing to do so results in the conclusive presumption that the tenancy ends on the effective date of the notice.

The undisputed evidence is that the Tenant has not paid rent since May 1, 2016, did not file an application for dispute resolution with respect to the 10 Day Notice, and continues to occupy the rental unit.

I find the Landlords are entitled to an order of possession, which will be effective one (1) day after service upon the Tenant.

Further, section 67 of the *Act* empowers me to order a party to pay compensation for damage or loss to the other for failing to comply with the *Act*, the regulations or a tenancy agreement. I find the Tenant has not paid rent in accordance with the tenancy agreement since May 1, 2016. Accordingly, I award the Landlords \$9,000.00 for unpaid rent.

Having been successful, I award the Landlords \$100.00 as recovery of the filing fee paid to bring the Application.

The Landlords have asked to apply the security deposit (\$900.00) and pet damage deposit (\$300.00) in partial satisfaction of any monetary award granted, which I allow. Accordingly, I grant the Landlords a monetary order in the amount of \$7,900.00, which has been calculated as follows:

Item	Amount
May rent	\$1,800.00
June rent	\$1,800.00
July rent	\$1,800.00
August rent	\$1,800.00
September rent	\$1,800.00
Filing fee	\$100.00
<i>LESS security deposit</i>	<i>(\$900.00)</i>
<i>LESS pet damage deposit</i>	<i>(\$300.00)</i>
TOTAL	\$7,900.00

Conclusion

I grant the Landlords an order of possession, which will be effective one (1) day after service upon the Tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

In addition, I grant the Landlords a monetary order in the amount of \$7,900.00. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 2, 2016

Residential Tenancy Branch

