



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 dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The only documentation submitted for this hearing was a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities submitted by the landlord. Both parties confirmed its form and content. Both parties gave affirmed evidence.

Issues(s) to be Decided

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

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about April 15, 2016. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. The tenants are also responsible to pay for utilities. The landlord testified that the tenants paid a \$600.00 security deposit and a \$200.00 pet deposit. The tenant failed to pay rent in the month(s) of September and on September 15, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of October and November. On November 2, 2016 the tenant made a partial payment of \$1401.50 for "use and occupancy only". The landlord advised that as of today's hearing the amount of unpaid rent and utilities is \$1914.60.

The tenant gave the following testimony. The tenant testified that he does not dispute the amount of unpaid rent and that he fully intended to pay the rent if he had the money. The tenant testified that he gets paid tomorrow and will try to pay the rent. The tenant testified that the amount of the pet deposit is in dispute. The tenant stated that he paid \$600.00, not the \$200.00 as claimed by the landlord.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed oral evidence provided by the landlord and amount of unpaid rent confirmed by the tenant, I am satisfied that the tenants continue to owe the landlord unpaid rent and utilities in the amount of \$1914.60. The landlord is also entitled to the recovery of the \$100.00 filing fee. Although the landlord has not applied to retain the security deposit at this time using the offsetting provision under Section 72 of the *Act*, I hereby apply the security deposit against the amount of unpaid rent. As the issue of the amount of pet deposit is in dispute, that matter can be addressed at the end of the tenancy or in a separate hearing if necessary. I issue a monetary award in the landlord's favour in the amount of \$1414.60.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1414.60. The landlord may retain the security deposit.

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: November 23, 2016

Residential Tenancy Branch

