



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VILLA ROSALMA, ROCKWELL MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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;

The landlord originally filed through the Direct Request Process to address this matter however due to some discrepancies in their application, the adjudicator adjourned this matter to a participatory hearing.

The tenants did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence and sworn testimony that he in the presence of a witness posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on December 2, 2016. I am satisfied that the landlord served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on December 5, 2016, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was personally served on the tenants in the presence of a witness on December 31, 2016. In accordance with section 89 of the *Act*, I am satisfied that the tenants were served with the landlord's dispute resolution hearing package.

Preliminary Issue

The landlord had originally sought parking fees as part of their Direct Request Application. It was explained to the landlord that parking fees cannot be recovered through that mechanism or through this conference call. The landlord indicated that they understood, accordingly; the landlords request for parking fees is dismissed with leave to reapply.

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?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about December 1, 2015. Rent in the amount of \$1131.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of December and on December 2, 2016 the landlord served the tenant with a notice to end tenancy. The tenants also failed to pay the rent for January. The landlord testified that the tenants made a \$550.00 payment on January 20, 2017 and were advised that the tenancy was not re-instated and that they were still pursuing their application. The landlord testified that as of this hearing the amount of unpaid rent is \$1712.00

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 evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent. The landlord is entitled to a monetary order in the amount 1712.00 pursuant to Section 67 of the *Act*.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1712.00.

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: January 25, 2017

Residential Tenancy Branch

