



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNR OPR

Introduction

This hearing was convened in response to applications by the landlords pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- an Order of Possession for non-payment of rent and utilities pursuant to section 55 of the *Act*;
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*; and
- a Return of the Filing Fee pursuant to section 72 of the *Act*.

Although the landlords attended this hearing, the tenant did not appear. The landlords were given full opportunity to be heard, to present evidence and to make submissions.

The landlords provided evidence that a 10 Day Notice to End Tenancy for Unpaid Rent (“10 Day Notice”) for unpaid rent was given to the tenant in person on January 17, 2017. Pursuant to section 88 of the *Act*, the tenant is found to have been served January 17, 2017.

Landlord RAG gave sworn testimony that on January 25, 2017 a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was given to the tenant in person. Pursuant to sections 88, and 89 of the *Act*, the tenant was served with the dispute resolution hearing package on January 25, 2017.

Issue(s) to be Decided

- are the landlords entitled to an Order of Possession?
- are the landlords entitled to a Monetary Order for unpaid rent?
- Can the landlords recover the filing fee from the tenant?

Background and Evidence

Undisputed sworn testimony provided during the hearing by the landlords explained that the tenancy in question began on May 31, 2015. Rent was \$950.00 per month and no security deposit was collected. The landlords stated that the tenant moved out of the rental unit on February 17, 2017. The landlords explained that he spoke with the tenant on this day and the tenant confirmed to him that he had moved out of the rental unit. The landlords informed that the tenant instructed him dispose of any belongings left in the rental unit.

The landlords stated that the tenant has failed to pay rent from December 2016, as well as for January and February 2017.

The landlords are seeking a Monetary Order of \$2,850.00 to recover monies owed for non-payment of rent for the following months.

Item	Amount
Unpaid rent for December 2016	\$950.00
Unpaid rent for January 2017	950.00
Unpaid rent for February 2017	950.00
Total =	\$2,850.00

Analysis – Order of Possession

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days has led to the end of the tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 27, 2017. As that has not occurred, I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Analysis – Monetary Order

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The male landlord provided undisputed testimony and written evidence to the hearing, demonstrating that rent was not paid for December 2016, as well as for January and February 2017.

Pursuant to section 67 of the *Act*, I find that the landlords are entitled to a Monetary Order of \$2,850.00 for unpaid rent.

As the landlords were successful in their application, they are entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant.

I make a Monetary Order of \$2,950.00 in favour of the landlords as follows:

Item	Amount
Unpaid rent for December 2016	\$950.00
Unpaid rent for January 2017	950.00
Unpaid rent for February 2017	950.00
Filing Fee	100.00
Total =	\$2,950.00

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: February 21, 2017

Residential Tenancy Branch

