



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX LITTLE OAK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

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

- an Order of Possession for unpaid rent pursuant to section 55; and
- a Monetary Order for unpaid rent and damages pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated January 17, 2017 was served on the tenants on the same date by posting on the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 10 Day Notice on January 20, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated February 10, 2017 was sent to the tenants by registered mail on February 15, 2017. The landlord provided two Canada Post tracking number as evidence of service. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidentiary materials on February 20, 2017, five days after its mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in June, 2014. Currently, the rent is \$1,745.00 payable on the first of the month. A security deposit of \$800.00 and a pet damage deposit of \$400.00 were paid by the tenant at the start of the tenancy and still held by the landlords.

The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$2,707.50, the amount initially sought in the 10 Day Notice. The landlord testified that the tenants have not made payment since the 10 Day Notice was issued nor are they aware of the tenants having filed a dispute of the 10 Day Notice. The landlord testified that the tenants have failed to pay the full rent for November and December, 2016, and January and February, 2017. The landlord said that the total amount owing for the tenancy as of March 13, 2017, the date of the hearing is \$3,382.00. The landlord provided portions of the tenant ledger as evidence of the rental arrear.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenants were obligated to pay the monthly rent in the amount of \$1,745.00. I accept the landlord's evidence that the tenants failed to pay the full rent due within the 5 days of service granted under section 46(4) of the *Act* nor did the tenants dispute the 10 Day Notice within that 5 day period. Accordingly, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, January 30, 2017. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$3,382.00. I issue a monetary award in the landlord's favor for unpaid rent of \$3,382.00 as at March 13, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenants' security deposit of \$800.00 and pet damage deposit of \$400.00 in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$2,182.00 under the following terms:

| Item | Amount |
|-----------------------------|-------------------|
| Unpaid Rent November | \$796.00 |
| Unpaid Rent December | \$296.00 |
| Unpaid Rent January | \$545.00 |
| Unpaid Rent February | \$1,745.00 |
| Less Security Deposit | -\$800.00 |
| Less Pet Damage Deposit | -\$400.00 |
| Total Monetary Order | \$2,182.00 |

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: March 13, 2017

Residential Tenancy Branch