



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR MNR FF

### **Introduction**

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlords attended the hearing by way of conference call, the tenants did not. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords testified that the tenants were served with the landlords' application for dispute resolution hearing package on April 28, 2017 by way of registered mail. The landlords provided Canada Post tracking numbers during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' application on May 3, 2017, five days after its registered mailing.

The landlords testified that the tenants were served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated April 18, 2017 ("10 Day Notice"), on April 18, 2017, by way of posting to 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 April 21, 2017, three days after its posting.

Although the landlords applied for a monetary Order of \$1,850.00 in their initial claim, since they applied another \$1,340.00 in rent has become owing that was not included in their application. I have accepted the landlords' request to amend their original application from \$1,850.00 to \$3,190.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

### **Issue(s) to be Decided**

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to section 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover their filing fee for this application pursuant to section 72 of the *Act*?

### **Background and Evidence**

The landlords testified regarding the following facts. This month-to-month tenancy began approximately a year ago with monthly rent in the amount of \$1,250.00 payable on the first day of each month. The landlords hold a security deposit in the amount of \$450.00 for this tenancy. The tenants continue to reside in the rental unit.

The landlords issued the 10 Day Notice, indicating an effective move-out date of May 1, 2017. The landlords testified that the tenants owe the following in outstanding rent: \$600.00 for March 2017, \$1,250.00 each for the months of April and June 2017, and \$90.00 for May 2017. The total outstanding rent is \$3,190.00. The landlords are seeking an Order of Possession as well as monetary compensation for the unpaid rent.

### **Analysis**

The landlords provided undisputed evidence at this hearing, as the tenants did not attend. The tenants failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenants did not make an 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 failure of the tenants to take either of the above actions within five days led to the end of this tenancy on May 1, 2017, the effective date on the 10 Day Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by May 1, 2017. As this has not occurred, I find that the landlords are entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlords' 10 Day Notice complies with section 52 of the *Act*.

The landlords provided undisputed evidence that the tenants failed to pay the outstanding rent in the amount of \$3,190.00. Therefore, I find that the landlords are entitled to \$3,190.00 in outstanding rent for this tenancy.

The landlords continue to hold the tenants' security deposit of \$450.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenants' security deposit in partial satisfaction of the monetary claim.

As the landlords were successful in their application, I find that they are entitled to recover the filing fee for this application.

### **Conclusion**

I grant an Order of Possession to the landlords effective **two (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 \$2,840.00 Monetary Order in favour of the landlords, which allows the landlords to recover unpaid rent, the filing fee for this application, and also allows the landlords to retain the tenants' security deposit in partial satisfaction of the monetary claim. 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: June 5, 2017

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Residential Tenancy Branch