



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This is a reconvened hearing dealing 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 pursuant to section 67.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord provided testimony that the tenants were personally served with the notice of a reconvened hearing, the submitted documentary evidence, interim decision and re-served copy of the 10 Day Notice dated April 2, 2017 on May 13, 2017. The landlord submitted a copy of a proof of service document that the tenants were served in person on May 13, 2017 with a witness. I accept the undisputed affirmed testimony of the landlord and find that the tenants were properly served as per sections 88 and 89 of the Act.

At the outset the landlord clarified that the monetary claim was being sought for unpaid rent for the time period indicated in 2017 instead of 2016. The landlord stated that this was a clerical error on his part. The landlord also seeks an amendment to the monetary claim increasing it from \$2,130.00 to \$3,550.00 to include the months May 2017 and June 2017 as the tenants still occupy the rental premises and have continued to not pay any rent. I accept the landlord's clarification regarding the monetary claim and find that the monetary claim may be increased as this is a continued action of the application for dispute sought by the landlord.

Issue(s) to be Decided

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

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

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on November 1, 2016 on a month-to-month basis as per the submitted copy of the signed tenancy agreement. The monthly rent is \$710.00 payable on the 1st day of each month. A security deposit of \$355.00 was paid on November 1, 2016.

The landlord seeks an order of possession and an amended monetary order for unpaid rent of \$3,550.00 which consists of:

\$710.00	Unpaid Rent, February 2017
\$710.00	Unpaid Rent, March 2017
\$710.00	Unpaid Rent, April 2017
\$710.00	Unpaid Rent, May 2017
\$710.00	Unpaid Rent, June 2017

The landlord has provided a copy of the signed tenancy agreement, a copy of the re-served 10 Day Notice dated April 2, 2017 and a copy of a proof of service document for the 10 Day Notice dated May 13, 2017. The landlord stated that the 10 Day Notice dated April 2, 2017 was re-served on May 13, 2017 in person to the tenants. The 10 Day Notice sets out that the tenants failed to pay rent of \$2,130.00 that was due on April 1, 2017 and an effective end of tenancy date of April 14, 2017.

The landlord provided undisputed testimony that the tenants have failed to pay rent for the 5 month period from February 2017 to June 2017. The landlord also stated that since the 10 Day Notice was re-served on May 13, 2017, no rent has been paid and that the tenants still occupy the rental premises.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed evidence of the landlord and find that the tenants were served with the 10 Day Notice dated April 2, 2017 on May 13, 2017. I also accept the undisputed affirmed evidence of the landlord that the tenants have failed to pay rent for the 5 month period from February 2017 to June 2017 owing rent of \$710.00 per month for a total of \$3,550.00.

The tenants failed to pay the outstanding rent within five days of receiving the 10 Day Notice on May 13, 2017. The tenants have not made application pursuant to subsection 46(4) of the Act within five days of receiving the 10 Day Notice. In accordance with subsection 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 effective date of the notice. In this case, this required the tenants to vacate the premises by May 23, 2017. I find that although the original effective end of tenancy dates was set as April 14, 2017, the Act allows for the correction of this date as I have provided. As that has not occurred, I find that the landlords are entitled to a two-day order of possession. The landlords will be given a formal order of possession which must be served on the tenant(s).

As for the monetary claim, the landlord has provided affirmed and uncontested testimony that the tenants have unpaid rental arrears totaling \$3,550.00. I find that the landlord has proven his entitlement to the rent arrears. The landlord is entitled to a monetary order for the unpaid rent.

Conclusion

The landlord is granted an order of possession for unpaid rent.

I issue a monetary order in the landlord's favour in the amount of \$3,550.00 under the following terms:

Item	Amount
Unpaid February 2017 Rent	\$710.00
Unpaid March 2017 Rent	\$710.00
Unpaid April 2017 Rent	\$710.00
Unpaid May 2017 Rent	\$710.00
Unpaid June 2017 Rent	\$710.00
Total Monetary Order	\$3550.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with these orders as soon as possible. Should the tenant(s) fail to comply with

these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

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 21, 2017

Residential Tenancy Branch