



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, OPR, OPC, FF

Introduction

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

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damage to the unit - Section 67;
3. An Order of Possession - Section 55; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord's evidence that each Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail in accordance with Section 89 of the Act. Postal evidence indicates that the Tenants refused the mail. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials regardless of them not collecting the mail. The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to any monetary amounts?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 15, 2016. Rent of \$1,200.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. The Tenant failed to pay rent for May 2017 and on May 2, 2017 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent. Within two or three days of the Tenant receiving this notice the Tenant paid the outstanding rent. The Tenant has been late paying the rent for March, April and May 2017. On May 5, 2017 the Landlord served the Tenants in person with a one month notice to end tenancy for cause (the "Notice"). The reason indicated on the Notice is repeated late rent payments. The Tenant paid June 2017 rent, did not dispute the Notice and has not moved out of the unit.

Analysis

Section 46 of the Act provides that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. As the Tenant paid the full amount of the arrears I find that the notice to end tenancy for unpaid rent is no longer effective. I therefore dismiss the Landlord's claim for unpaid rent. The Landlord remains at liberty to make an application for any unpaid rents after June 2017.

Section 47 of the Act provides that a tenant who receives a one month notice to end tenancy for cause has 10 days to dispute the notice. Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Given the undisputed evidence that the Tenant received the Notice, did not dispute the Notice and has not moved out of the unit I find that the Landlord is entitled to an order of possession.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. As the Tenant has yet to move out of the unit the Tenant still has time to repair any damage caused by the Tenants. I therefore dismiss the Landlord's claim for damages with leave to reapply should the Tenant leave the unit damaged beyond reasonable wear and tear.

As the Landlord's application had merit I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and I order the Landlord to deduct this amount from the security deposit of **\$600.00** plus zero interest in full satisfaction of the claim.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain \$100.00 from the security **deposit** and interest of \$600.00 in full satisfaction of the claim.

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: July 18, 2017

Residential Tenancy Branch