



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR

Introduction

This hearing dealt 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

The landlord made an application through the Direct Request process however it was determined by the Adjudicator that a participatory hearing was required. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenants acknowledged receipt of evidence submitted by the landlord. The tenants did not submit any documentation for this hearing. Both parties gave affirmed evidence.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

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

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about June 1, 2015. Rent in the amount of \$1675.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of June and on June 2, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) July. The landlord testified that the tenants made partial payments for which they were given a receipt "for use and occupancy only". The landlord testified that the tenants have paid their rent in full as of July 25, 2017 however the landlord still wishes to have the tenancy end and request an order of possession.

The tenants gave the following testimony. The tenants testified that the reason there were late in paying the rent is that they were in a car accident that affected their financial situation. The tenants testified that they would like to stay and that the rent won't be late again.

Analysis

The tenants failed to pay their rent in full within five days of being served the 10 Day Notice. The tenants have not made 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 tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

In this case, this required the tenants to vacate the premises by June 15, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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 26, 2017

Residential Tenancy Branch