



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MND OPR OPN

Introduction

This hearing was convened in response to applications by the landlords pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows

- an Order of Possession for non-payment of rent and utilities pursuant to section 55 of the *Act*; and
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent and for money owed for damage or loss under the *Act*.

The tenant did not appear at the hearing, while only the landlord C.L. participated in the conference call hearing. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord explained that a 10 Day Notice to End Tenancy (“10 Day Notice”) was posted on the tenant’s door on May 17, 2017. Pursuant to sections 88 & 90 of the *Act* the tenant is deemed to have been served with this notice on May 20, 2017.

On June 19, 2017 the landlord sent the tenant a copy of his application for dispute resolution and evidentiary package by way of Canada Post Registered Mail. A copy of the tracking number and Canada Post receipt were provided to the hearing. Pursuant to sections 88, 89 & 90 of the *Act* the tenant is deemed to have been served with these documents on June 24, 2017.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Can the landlord recover a monetary award for unpaid rent?

Background and Evidence

The landlord provided undisputed testimony that this tenancy began on December 1, 2016 and the tenant abandoned the property on approximately June 2, 2017. The landlord explained that he was unsure of the exact date because the tenant had texted landlord on June 15, 2017 informing him that the rental unit had been abandoned “about two weeks ago.”

Rent was \$1,000.00 per month and a security deposit of \$500.00 collected at the outset of the tenancy continues to be held by the landlord.

The landlord explained that he sought an Order of Possession because he did not know what to do with the contents of the rental unit which had been abandoned by the tenant. In addition to an Order of Possession, the landlord sought a Monetary Order of \$2,920.96 in reflection of unpaid rent and utilities. The landlord stated that partial rent remained unpaid for March, while May and June remained completely unpaid. In addition the tenant did not pay a \$620.00 hydro bill.

During the course of the hearing, the landlord stated that he had no forwarding address for the tenant and could not contact him to arrange for a removal of the tenant's belongings.

Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made an application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days has led to the end of the tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by May 30, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the

agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove entitlement to a claim for a monetary award.

The landlord explained that the tenant had not paid \$300.00 in rent for March 2017 and had failed to pay rent in its entirety for May and June 2017. In addition, the tenant failed to pay a \$620.00 hydro bill.

The landlord sought a monetary order of \$2,920.00, which was the amount in unpaid and utilities remaining under the tenancy.

The tenant failed to attend the hearing, and no evidence was submitted by the tenant explaining why rent and utilities remained unpaid. I find that the landlord has suffered a loss under this tenancy and pursuant to section 67 of the *Act* I find that the landlord is entitled to receive a monetary award for unpaid rent and utilities of \$2,920.00.

Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's \$500.00 security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

The landlord is directed to consult the website of the *Residential Tenancy Branch* which contains information on steps that must be taken when dealing with abandoned property.

<http://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/items-left-behind>

Conclusion

I make a Monetary Order of \$2,420.00 in favour of the landlords as follows:

Item	Amount
Partial unpaid rent for March 2017	\$300.00
Unpaid rent for May 2017	1,000.00
Unpaid rent for June 2017	1,000.00
Unpaid Utilities	620.00
Retention of Security Deposit	(-500.00)
Total =	\$2,420.00

The landlords are provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

I grant an Order of Possession to the landlord effective two days after service of this Order on the tenant. Should the tenant fail to comply with this Order, this Order may be 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: August 3, 2017

Residential Tenancy Branch