



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution by Direct Request. The matter was subsequently referred to a participatory hearing, held on August 29, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities; and,
- a monetary order for unpaid rent or utilities.

The Landlord, L.E., was accompanied at the hearing by his daughter, B.D., and his counsel, M.P. Both Tenants, B.H. and J.I., attended the hearing. All parties provided affirmed testimony at the hearing.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord provided a copy of the tenancy agreement between the parties. It confirms the tenancy began in November of 2016. Current rent is set at \$700.00 and the Landlord does not hold a security deposit.

The Landlord testified that the Tenant has not paid rent for June, July or August of 2017. The Landlord also provided a copy of the 10 Day Notice to End Tenancy for

Unpaid Rent (the 10 Day Notice). The Landlord testified that the 10 Day Notice was served to the Tenants by way of a process server, who posted a copy on the front door of the rental unit, and also left a copy in the mailbox on July 7, 2017.

The 10 Day Notice indicated that the amount of outstanding debt accrued at that time was \$1,400.00. The Landlord testified that this amount represented rent for June and July of 2017. The Landlord also testified that no rent has been paid since giving the 10 Day Notice to the Tenants. Accordingly, the Landlord stated that rent is still outstanding and has not been paid as required on June 1, July 1, and August 1 of 2017, and the Tenant now owes \$2,100.00 in unpaid rent, at the time of the hearing.

The Tenants testified that they have not paid rent since May of 2017, and did not dispute the 10 Day Notice to End Tenancy or pay the past due rent within 5 days of getting the 10 Day Notice. The Tenants also testified that they were not paying rent because of some deficiencies in the rental unit that they believe should have been fixed.

Analysis

Based on the totality of evidence before me, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy.

A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In this case, based on the affirmed testimony and the documentary evidence before me, I find that the Tenants have not paid rent when due since June 1, 2017. Further, I find the Tenants have failed to provide any evidence that they had the right, under the *Act*, to withhold any amount of rent.

I am satisfied the Tenants received the 10 Day Notice and they did not dispute it or pay the outstanding rent within 5 days. As the Tenants did neither, I find the Tenants are

conclusively presumed to have accepted the end of the tenancy. The Landlord is entitled to an order of possession.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence, from both parties, before me to demonstrate that the Tenants owe and have failed to pay the following:

Claim	Amount
Unpaid rent: June, July & August of 2017	\$700.00 x 3
TOTAL:	\$2,100.00

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenants. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$2,100.00** comprised of rent owed. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 29, 2017

Residential Tenancy Branch