



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, dated July 24, 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;
- a monetary order for unpaid rent or utilities;
- an order allowing the Landlord to keep all or part of the pet damage deposit or security deposit; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by S.S., an agent, who provided affirmed testimony. The Tenants did not attend the hearing.

On behalf of the Landlord, S.S. testified the Application package was served on the Tenants in person on August 1, 2017. I find the Tenants were served with and received the Application package on that date.

On behalf of the Landlord, S.S. was provided with 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.

Issue 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?
3. Is the Landlord entitled to keep all or part of the pet damage deposit or security deposit?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the month-to-month tenancy began on October 1, 2016. Rent in the amount of \$900.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$450.00, which the Landlord holds.

On behalf of the Landlord, S.S. testified the Tenants have repeatedly failed to pay rent when due. Although a number of notices to end tenancy were submitted into evidence, the notice to end tenancy for unpaid rent or utilities at issue in this hearing was served by posting a copy to the door of the Tenants' rental unit on July 5, 2017 (the "10 Day Notice"). At that time, \$1,545.00 was outstanding.

On behalf of the Landlord, S.S. testified the Tenants, since being served with the 10 Day Notice, have made a number of partial payments, as follows:

Payment date	Payment amount
August 14, 2017:	\$1,000.00
September 2, 2017:	\$100.00
September 11, 2017:	\$600.00
September 25, 2017:	\$850.00
October 10, 2017:	\$850.00

However, according to S.S., rent in the amount of \$895.00 remains outstanding.

The Tenants did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement. In this case, the evidence confirmed, and I find, that rent in the amount of \$895.00 is outstanding. Accordingly, I find the Landlord is entitled to a monetary order for unpaid rent and to recover the filing fee, and may retain the security deposit in partial satisfaction. Accordingly, the Landlord is entitled to a monetary order in the amount of \$545.00, which has been calculated as follows:

Claim	Amount
Unpaid rent:	\$895.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$450.00)
TOTAL:	\$545.00

The Landlord also sought an order of possession. In this case, S.S. testified the Tenants were served with the 10 Day Notice by posting a copy to the door of the Tenants' rental unit on July 5, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Tenants are deemed to have received the 10 Day Notice on July 8, 2017. Accordingly, pursuant to section 46(4) of the *Act*, the Tenants had until July 13, 2017, to pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. As the Tenants did neither of these things, I find the Tenants are conclusively presumed to have accepted the end of the tenancy, pursuant to section 46(5) of the *Act*. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenants.

Conclusion

The Landlord is granted a monetary order in the amount of \$545.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenants. The order of possession may be filed in 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: October 23, 2017

Residential Tenancy Branch