



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LTD. PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MND, MNDC, FF

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 pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence and sworn testimony that they posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door On August 4, 2017. I am satisfied that the landlord served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on August 7, 2017, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package and evidence were sent to both tenants by registered mail on August 24, 2017. The landlord entered into written evidence copies of the tracking slips, including the Canada Post Tracking Numbers. The packages were signed for and accepted by the tenants on August 29, 2017. I am satisfied that the tenants were served notice of this hearing in accordance with Section 89 of the *Act* and proceeded in their absence.

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?

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The tenancy began on or about August 1, 2012. Rent in the amount of \$1013.71 is payable in advance on the first day of each month. At the outset of the tenancy the tenants paid a security deposit of \$437.50 which the landlord still holds. The tenants failed to pay rent in the month(s) of August and on August 4, 2017 the landlord served the tenants with a notice to end tenancy. The tenants further failed to pay rent in the month(s) of September. The landlord advised that the tenants have made some partial payments to which they received receipts "for use and occupancy only, tenancy not reinstated". The landlord advised that as of today's hearing the amount of unpaid rent is \$1256.76.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. 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 August 17, 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.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent, using the offsetting provision under Section 72 of the Act, I hereby apply the security deposit against the amount of unpaid rent. The landlord is also entitled to the recovery of the filing fee

Conclusion

The landlord has been successful as follows:

Item	Amount
Unpaid Rent	\$1256.76
Filing Fee	100.00
Minus Deposit	-437.50
Total Monetary Order	\$919.26

The landlord is granted an order of possession and a monetary order for \$919.26. The landlord may retain the security deposit.

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: November 15, 2017

Residential Tenancy Branch