



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, as amended by an Amendment to an Application for Dispute Resolution received at the Residential Tenancy Branch on December 22, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act*:

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing in person and was represented by B.D., a property manager, who provided affirmed testimony. The Tenants did not attend the hearing.

On behalf of the Landlord, B.D. testified the Application package was served on the Tenants by registered mail on October 18, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenants are deemed to have received the Application package on October 23, 2017. B.D. also confirmed the Amendment to an Application for Dispute Resolution, referred to above, was served on the Tenants in person on December 22, 2017. Service in this manner was supported by a hand-written statement, also dated December 22, 2017. I find the Tenants were served with and received the Amendment to an Application for Dispute resolution on December 22, 2017.

The Landlord and B.D. were 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 an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence by the Landlord. It confirmed the fixed-term tenancy began on March 1, 2017, and was to end on February 28, 2018. Rent in the amount of \$2,300.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$1,150.00, which the Landlord holds.

On behalf of the Landlord, B.D. testified the Tenants did not pay rent when due on October 1, 2017. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 2, 2017 (the "10 Day Notice"). According to B.D., the 10 Day Notice was served on the Tenants in person on that date, with a witness present. A signed Proof of Service document confirming service in this manner was submitted with the Landlord's documentary evidence.

In addition, B.D. testified the Tenants did not pay rent when due on November 1 and December 1, 2017, and on January 1, 2018. Currently, rent in the amount of \$9,200.00 is outstanding (\$2,300.00 x 4 months).

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:

The Landlord sought an order of possession. In this case B.D. testified, and I find, that the Tenants were served with and received the 10 Day Notice on October 2, 2017. Accordingly, pursuant to section 46(4) of the *Act*, the Tenants had until October 7, 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 they are conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day

Notice, pursuant to section 46(5) of the *Act*. As a result, the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenants.

Further, the Landlord sought a monetary order for unpaid rent. Section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement. In this case, B.D. testified, and I find, that rent was not paid when due on October 1, November 1, and December 1, 2017, or on January 1, 2018, and that \$9,200.00 is outstanding. Having been successful with the Application, I also find the Landlord is entitled to recover the filing fee. Accordingly, the Landlord is entitled to a monetary order in the amount of \$9,300.00, which is comprised of \$9,200.00 in unpaid rent and \$100.00 in recovery of the filing fee.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after it is served on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$9,300.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: January 9, 2018

Residential Tenancy Branch