



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, OPR, MNR, MNDC, FF

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenants' applied for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed evidence. The tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were each served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on November 17, 2017. A review of the Canada Post Website by the landlord shows that the tenants' package(s) were delivered and signed for on November 20, 2017. I accept the undisputed evidence of the landlord and find that the tenants

were properly served as per sections 88 and 89 of the Act and are deemed served as per section 90.

At 11 minutes past the start of the scheduled hearing time, the tenants' application was dismissed without leave to reapply. The landlord confirmed receipt of the tenants notice of hearing package and was aware of the tenants' issue(s) of dispute.

The hearing shall proceed only on the landlord's application.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on March 4, 2017 on a fixed term tenancy ending on March 1, 2018 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$2,600.00 payable on the 1st day of each month. A security deposit of \$1,300.00 and a pet damage deposit of \$200.00 were paid.

The landlord seeks an order of possession and a monetary order for unpaid rent of \$10,670.00.

The landlord provided undisputed affirmed testimony that the tenants were served with the 10 Day Notice dated October 28, 2017 in person on October 28, 2017. The 10 Day Notice was given to an occupant of the rental premises who signed in receipt of the 10 Day Notice as shown on the bottom portion of the notice. The landlord also referred to the tenants' application which stated that the 10 Day Notice was received on October 28, 2017.

The 10 Day Notice states that the tenants failed to pay rent of \$2,870.00 which was due on October 1, 2017 and sets out an effective end of tenancy date of November 8, 2017.

The landlord clarified that the monetary claim of \$10,670.00 consists of:

\$270.00	Unpaid Rent, September 2017
\$2,600.00	Unpaid Rent, October 2017
\$2,600.00	Unpaid Rent, November 2017
\$2,600.00	Unpaid Rent, December 2017
\$2,600.00	Loss of Rental Income, January 2018

The landlord stated that since the 10 Day Notice was served, no rent has been paid by the tenants and that they still occupy the rental premises.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I find that the tenants were properly served with the 10 Day Notice dated October 28, 2017, which was served to an occupant who had signed in receipt of the notice. This was further confirmed in the tenants' abandoned application for dispute which the tenants stated that the 10 Day Notice was received on October 28, 2017.

I find, on a balance of probabilities, the tenants did not pay or attempt to pay the rent when it was due or within the five days provided for pursuant to section 46. The tenants did not provide any evidence. The tenants did not dispute that the rent was not paid.

I find that the landlord is entitled to a two-day order of possession.

On the landlord's monetary claim, I accept the landlord's undisputed submissions that the tenants did not pay any rent since the 10 Day Notice was issued on October 28, 2017. I find that the landlord is entitled to this amount of \$10,670.00 for unpaid rent/loss of rental income as they still occupy the rental premises.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

I issue a monetary order in the landlord's favour in the amount of \$10,770.00, to enable the landlord to recover unpaid rent from the tenant.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$10,770.00.

These orders must be served upon the tenants. Should the tenants fail to comply with the order(s), the order(s) may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as order(s) of those courts.

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 16, 2018

Residential Tenancy Branch