



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR MNRL-S FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on January 2, 2018 by way of registered mail. The landlord provided Canada Post tracking numbers in their evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidence on January 7, 2018, five days after its registered mailing.

The landlord testified that the tenants were served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 18, 2017("10 Day Notice"), on December 18, 2017, by way of Registered Mail. The landlord provided Canada Post tracking numbers in their evidence. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 10 Day Notice on December 23, 2017, five days after its registered mailing.

Although the landlord applied for a monetary Order of \$6,000.00 in their initial claim, since they applied another \$4,000.00 in rent has become owing that was not included in their application. I have accepted the landlord's request to amend their original application from \$6,000.00 to \$10,000.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to monetary compensation for unpaid rent?

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

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on October 1, 2017 with monthly rent in the amount of \$2,000.00 payable on the first day of each month. The landlord holds a security deposit in the amount of \$1,000.00 for this tenancy. The tenants continue to reside at the residence.

The landlord issued the 10 Day Notice on December 18, 2017, as the tenants' rent cheques for October 2017 through to December 2017 were returned by the bank due to non-sufficient funds. The landlord testified that the tenants now owe rent for October 2017 through to February 2018, totalling \$10,000.00 in outstanding rent, and have not paid any rent since the 10 Day Notice was issued to them.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. The tenants failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenants did not make an 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 failure of the tenants to take either of the above actions within five days led to the end of this tenancy on January 3, 2018, the corrected effective date on the 10 Day Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by January 3, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*.

The landlord provided undisputed evidence that the tenants failed to pay the outstanding rent in the amount of \$10,000.00. Therefore, I find that the landlord is entitled to \$10,000.00 in outstanding rent for this tenancy.

The landlord continues to hold the tenants' security deposit of \$1,000.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

As the landlord was successful in their application, I find that the landlord is entitled to recover the filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant(s)**. Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a \$9,100.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent	\$10,000.00
Recovery of Filing Fee for this Application	100.00
Security Deposit and Pet Damage Deposit	-1,000.00
Total Monetary Order	\$9,100.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: March 1, 2018

Residential Tenancy Branch