



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR MNR FF

Introduction:

Only the landlord attended the hearing and gave sworn testimony. The Notice to End Tenancy is dated January 5, 2018 to be effective January 15, 2018 and the tenant he said it and the Application for Dispute Resolution were served personally to the tenants. He said the tenants vacated about February 25, 2018. I find the documents were legally served pursuant to section 89 for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for unpaid rent pursuant to section 46;
- b) For a monetary order for the unpaid rent and utilities; and
- c) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 46 and they are entitled to an Order of Possession? Are they entitled to a monetary order for unpaid rent and utilities and to recover the filing fee?

Background and Evidence

Only the landlord attended the hearing although both tenants were served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in July 2017, rent is \$1800 a month and no security deposit was paid. The tenants never paid rent for January or February 2018 and vacated about February 25, 2018. The landlord no longer requires an Order of Possession but requests a monetary order for unpaid rent of \$3600 (2x\$1800) plus \$512.22 which is owed for utilities. The landlord explained the utilities were in his name but the tenants were required to pay them. The bills are as follows: \$159.71 for BC Hydro, \$295.16 for LNG (gas) and \$57 for telephone.

Analysis:

Section 46 of the Act provides a landlord may end a tenancy if there is unpaid rent. I find section 46(4) states a tenant has 10 days to dispute the Notice to End Tenancy. If they do not file an application to dispute within this time, I find section 46(5) provides they are conclusively presumed to have accepted the end of the tenancy on the date set out on the notice and must vacate the rental unit by that date. I find the tenants have vacated so an Order of Possession is no longer required.

I find the weight of the evidence is the tenants owe rent for January and February 2018 in the amount of \$3600. I find the landlord's evidence credible that they were required to pay utilities but did not, so they owe \$512.22 for the utilities which were in his name.

Conclusion:

I find the landlord entitled to a monetary order as calculated below and to recover their filing fees for this application.

Rent arrears January 2018	1800.00
Over-holding rent February 2018	1800.00
Utilities- electric, gas and telephone	512.22
Filing fee	100.00
Total Monetary Order to Landlord	4212.22

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 14, 2018

Residential Tenancy Branch