



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNDC, FFL

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for Orders as follows:

1. An Order of Possession pursuant to sections 46, 47, and 55;
2. A Monetary Order for unpaid rent pursuant to section 67;
3. A Monetary Order for compensation pursuant to section 67; and
4. Authorization to recover the filing fee from the landlord for this application pursuant to section 72.

The tenants did not appear although I left the teleconference hearing connection open from the scheduled commencement time of 9:30 AM to 9:49 AM to enable the tenants to participate. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Hearing. Following the hearing, I confirmed from the online teleconference system that the landlord's representative and I were the only ones who had called into this teleconference.

The landlord appeared by his agent SA ("the landlord") and was given full opportunity to be heard, to present evidence, and to make submissions.

The landlord testified that individual copies of the landlord's dispute resolution hearing package and written evidence package were sent to both tenants individually by registered mail on March 17, 2018 and she provided Canada Post Tracking Numbers.

I find that the tenants were deemed served with these packages on March 22, 2018 pursuant to section 90 of the *Act*.

I accept the tenants were duly served with the 10 Day Notice and the Application for Dispute Resolution hearing package.

The landlord's claim included compensation for expenses for 'junk removal' in the amount of \$950.00. This claim was withdrawn during the hearing.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession pursuant to sections 46, 47, and 55?
2. Is the landlord entitled to a Monetary Order for unpaid rent pursuant to section 67?
3. Is the landlord entitled to authorization for recovery of the filing fee from the tenants for the cost of this application pursuant to section 7?

Background and Evidence

The landlord gave undisputed sworn evidence that a month to month lease for the rental unit began on February 16, 2018 at a rental of \$1500.00 a month. No written tenancy agreement was signed. One-half the rent was payable upon moving in on January 16, 2018. Monthly rent was thereafter payable on the first of each month. The tenants did not pay a security deposit. The tenants continue to reside in the rental unit.

No payment on rent has ever been made. The landlord's undisputed evidence was that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") dated February 14, 2018 citing \$2,250.00 in unpaid rent was personally served upon the tenants on February 15, 2018 following which the tenants did not pay any rent. The 10 Day Notice contained an effective vacancy date of February 24, 2018, the corrected effective date being February 25, 2018.

After the expiration of that 10-day period, the landlord applied for an Order of Possession. The landlord provided undisputed sworn evidence that rent is owing for three and a half months for a total of \$5,250.00.

Pursuant to section 47 of the *Act*, the landlord filed a One Month Notice to End Tenancy for Cause dated February 14, 2018 and served upon the tenants on February 15, 2018. The landlord did not proceed with this Notice during the hearing.

Analysis

The tenants failed to pay rent within five days of receiving the 10 Day Notice to End Tenancy and have not made application pursuant to section 46(4) of the *Act* within five days of receiving 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 effective date of the notice. In this case, this required the tenants to vacate the premises on the corrected effective date of February 25, 2018.

I find that the landlord is entitled to an Order of Possession which must be served on the tenant. 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.

I accept the uncontested sworn evidence of the landlord that the tenants owe the landlord \$5,250.00 for unpaid rent for one-half of January 2018 and for the whole of the months of February, March, and April 2018. I find that the landlord is entitled to a Monetary Order in this amount. This Order must be served on the tenants and should the tenants fail to comply with the Order the landlord may enforce it through Provincial Court.

As the landlord is successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

I grant a Monetary Order in favour of the landlord for \$5,350 as follows:

Rental arrears for January 2018	\$750.00
Rental arrears for February 2018	1,500.00
Rental arrears for March 2018	1,500.00
Rental arrears for April 2018	1,500.00
Recovery of filing fee for this application	100.00
Total Monetary Award	\$5,350.00

Conclusion

The landlord is provided with formal Orders in the above terms.

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: April 24, 2018

Residential Tenancy Branch