



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 525785 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNRL FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord and one of the tenants attended the hearing, and the tenant also represented the other tenant. The parties each gave affirmed testimony and were given the opportunity to question each other and give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on May 15, 1999 and the tenants still reside in the rental unit. Rent in the amount of \$850.00 per month was originally payable on the 1st day of each month, which was raised from time to time and is currently \$1,045.00 per month. A copy of 2 pages of a 4-page tenancy agreement has been provided as evidence for this hearing. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$425.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The landlord further testified that on April 7, 2018 he personally served one of the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and a copy has been provided for this hearing. It is dated April 7, 2018 and contains an effective date of vacancy of April 18, 2018 for unpaid rent in the amount of \$1,045.00 that was due on April 1, 2018.

Since the issuance of the Notice, the tenants paid \$540.00 on April 26; \$40.00 on May 1; \$705.00 on May 28; \$999.00 on May 31; \$300.00 on June 1, leaving a balance due of \$551.00 as well as the water bill totalling \$420.00. Receipts have been provided as evidence for this hearing.

The landlord has not been served with an Application for Dispute Resolution by the tenants disputing the Notice, and the landlord seeks an Order of Possession, a monetary order totalling \$971.00 and recovery of the \$100.00 filing fee.

The tenant testified that the amounts paid and owed are correct, and does not dispute the amounts. The tenant's husband is ill and is not in condition to move. The tenants have been living in the rental unit for a long time and have looked after it and treated it very well. They are good tenants except for some monetary problems. It's been difficult, but things are getting better, and the tenants will be able to pay rent on time going forward.

The tenant agrees that \$551.00 is owed for rent to the end of June, 2018, and \$420.00 is owed for the water bill. The tenant asks for a payment plan of \$150.00 to the landlord today, and \$401.00 as well as the \$420.00 water bill on June 30, 2018; current rent of \$1,045.00 on July 1, 2018 and zero tolerance for late payments going forward.

Analysis

The landlord did not accept the payment plan and suggestions made by the tenant. I understand that the tenants have fallen into a hardship, however the law doesn't allow me to make a monetary order for a payment plan without the landlord's consent.

The landlord has applied for an Order of Possession for unpaid rent or utilities. In order to be successful, the landlord must establish that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice) was issued in accordance with the *Residential Tenancy Act*. The landlord testified that it was served on April 7, 2018 in person and the tenant did not dispute that testimony. I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Once served, a tenant has 5 days to pay the rent in full or dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is

conclusively presumed to have accepted the end of the tenancy. In this case, the tenants did not dispute the Notice, and paid a portion of the rent. The landlord has provided copies of receipts on which are written that the money is being accepted for Use and Occupancy and does not serve to reinstate the tenancy. The tenants did not pay the rent in full or dispute the Notice within 5 days. Having found that the Notice is in the approved form, I find that the landlord is entitled under the *Act* to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenants.

The tenants do not dispute the amount of rent and utilities owed to the landlord, and I find that the landlord has established a monetary claim in the amount of \$971.00, being \$551.00 for rent and \$420.00 for the water utility. Since the landlord has been successful with the application, the landlord is also entitled to recover the \$100.00 filing fee from the tenants.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenants.

I further grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,071.00.

This order is final and binding and may be enforced.

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: June 27, 2018

Residential Tenancy Branch