



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord filed under the *Residential Tenancy Act* (the “Act”), for an order of possession to enforce a 10-Day Notice for Unpaid Rent or Utilities (the “Notice”) issued on May 8, 2018, a monetary order for unpaid rent, permission to retain the security deposit, and for the return of their filing fee.

The Landlord attended the hearing. The Landlord was affirmed to be truthful in her testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlord testified that she served the Tenants with the Notice of Hearing documents by Canada Post Registered mail, sent on June 4, 2018, a Canada post tracking number was provided as evidence of service. I find that the Tenant had been duly served in accordance with sections 89 and 90 of the *Act*.

The Landlord was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Is the Landlord entitled to an order of possession pursuant to section 46 of the *Act*?
- Is the landlord entitled to a monetary order for unpaid rent?

- Is the Landlord entitled to the return of their filing fee?

Background and Evidence

The Landlord testified that the tenancy began on January 30, 2018, as a month to month tenancy; rent in the amount of \$850.00 is to be paid by the first day of each month and that the Tenants had paid a \$425.00 security deposit at the outset of this tenancy.

The Landlord testified that she served the Tenants with the Notice to End Tenancy by attaching it to the Tenants' door or other conspicuous place at May 8, 2018, with an effective date of May 18, 2018. The Notice informed the Tenants of the right to dispute the Notice or pay the outstanding rent within five days after receiving it. The Notice also informed the Tenants that if an application to dispute the Notice or payment of the outstanding rent in full is not made within five days, the Tenants are presumed to have accepted the Notice and must move out of the rental unit on the date set out on page one of the Notice.

The Landlord testified that the Tenants have not paid the outstanding rent for May or for the subsequent months of June and July 2018, and have not moved out of the rental unit. The Landlord also testified that the Tenants had not served her with notification that they had filed an application to dispute the Notice.

The Landlord is seeking an order of possession and a monetary order for the outstanding rent.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for Non-payment of Rent a tenant must, within five days, either pay the amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not do either of these things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice under section 46(5).

I find that the Tenants were deemed to have received the Notice on May 11, 2018. I also find that the Tenants have not paid the rent or disputed the Notice and are conclusively presumed to have accepted the tenancy ended on the effective date of the Notice.

Section 55 of the *Act* states that a Landlord is entitled to request an order of possession when a tenant has not disputed the Notice.

Therefore, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*, effective **two days** after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that the costs of such enforcement are recoverable from the tenant.

Additionally, I find that the Landlord has established an entitlement to a monetary award for loss of three months rent, and is authorized to retain the Tenants' security deposit as partial satisfaction of this award.

As the Landlord has been successful in this application, I also find that the Landlord is entitled to recover their \$100.00 filing fee for this hearing.

I grant the Landlord a monetary order in the amount of \$2,225.00; consisting of \$2550.00 in unpaid rent, \$100.00 for the recovery of the filing fee, less the security deposit of \$425.00 that the Landlord is holding.

<u>Rent</u>	<u>Due</u>	<u>Paid</u>	<u>Outstanding</u>
May 2018	\$850.00	\$0.00	\$850.00
June 2018	\$850.00	\$0.00	\$850.00
July 2018	\$850.00	\$0.00	\$850.00
Total Outstanding Rent			\$2,550.00
Filing Fee			\$100.00
			<hr/> \$2,650.00
Security Deposit Held			-\$425.00
Due			<hr/> \$2,225.00

Conclusion

I find for the Landlord pursuant to sections 46, 67 and 72 of the *Act*.

I grant an **Order of Possession** to the Landlord effective **two days** after service on the Tenants. The Tenants must be served with this Order. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant the Landlord a **Monetary Order** in the amount of **\$2,225.00** for the outstanding rent and the recovery of the filing fee for this application, less the security deposit the Landlord holds. The Landlords are provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. Should the Tenant 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: July 13, 2018

Residential Tenancy Branch