



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

On May 24, 2018, the Landlord applied for a Dispute Resolution proceeding seeking the following under the Act, regulation, or tenancy agreement:

- An Order of Possession for unpaid rent and utilities;
- A Monetary Order for unpaid rent and utilities; and
- To recover the filing fee.

G.B.L. attended the hearing as the Landlord and R.L. attended as his interpreter; however, the Tenant did not attend the hearing. G.B.L. and R.L. provided a solemn affirmation.

R.L. advised that the Landlord served the Notice of Hearing package to the Tenant by registered mail on June 5, 2018 and he provided a receipt to confirm this. Rule 3.1 of the Rules of Procedure requires that the Landlord serve the Notice of Hearing package within three days of May 24, 2018. However, while this was not complied with, as the hearing was more than a month after the Notice of Hearing package was served by registered mail, I do not find this to be prejudicial to the Tenant. As such, I determined that the Dispute Resolution proceeding could continue. In accordance with sections 89 and 90 of the Act, and based on this undisputed testimony, I am satisfied that the Tenant was deemed to have received the Landlord's Notice of Hearing package.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent or utilities?
- Is the Landlord entitled to a Monetary Order for unpaid rent or utilities?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

R.L. advised that the Landlord did not know when the tenancy started; however, the current rent was established at \$610.00 per month, due on the first of each month. A security deposit was not collected.

R.L. advised that the Landlord submitted that the Tenant had been in arrears for rent since December 2017 and a 10 Day Notice for Unpaid Rent (the "Notice") was served to the Tenant on May 11, 2018 by posting to the door. In accordance with section 88 of the Act, I am satisfied that the Tenant was served with the Notice. The Notice indicated that \$3,660.00 was outstanding on May 1, 2018 and as of the time of the hearing, the rent outstanding was \$4,880.00.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the Act that are applicable to this situation. My reasons for making this decision are below.

Section 26 of the Act states that rent must be paid by the Tenant when due according to the tenancy agreement, whether or not the Landlord complies with the tenancy agreement or the Act, unless the Tenant has a right to deduct all or a portion of the rent.

Should the Tenant not pay the rent when it is due, Section 46 of the Act allows the Landlord to serve a 10 Day Notice to End Tenancy for Unpaid rent. Once this Notice is received, the Tenant would have five days to pay the rent in full or to dispute the Notice. If the Tenant does not do either, the Tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice, and the Tenant must vacate the rental unit.

Section 67 of the Act allows a Monetary Order to be awarded for damage or loss when a party does not comply with the Act.

As outlined above, the undisputed evidence is that the rent up to May 1, 2018 was not paid in full when it was due. In addition, as of the time of the hearing, rent was further outstanding. Moreover, the Tenant did not dispute the Notice within the applicable timeframe. As the Landlord's Notice is valid and as the Tenant has not complied with the Act, I find that the Landlord is entitled to an Order of Possession. I also find that the Landlord is entitled to a Monetary Order in the amount of **\$4,880.00**, which is comprised of rent owed for past arrears including rent for June and July 2018.

As the Landlord was successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. As such, I grant the Landlords a Monetary Order in the amount of **\$4,980.00**.

Pursuant to sections 67 and 72 of the Act, I grant the Landlord a Monetary Order as follows:

Calculation of Monetary Award Payable by the Tenants to the Landlords

December 2018 – Outstanding rent	\$610.00
January 2018 – Outstanding rent	\$610.00
February 2018 – Outstanding rent	\$610.00
March 2018 – Outstanding rent	\$610.00
April 2018 – Outstanding rent	\$610.00
May 2018 – Outstanding rent	\$610.00

June 2018 – Outstanding rent	\$610.00
July 2018 – Outstanding rent	\$610.00
Recovery of filing fee	\$100.00
TOTAL MONETARY AWARD	\$4,980.00

Conclusion

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

The Landlord is provided with a Monetary Order in the amount of **\$4,980.00** 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 11, 2018

Residential Tenancy Branch