



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF, CNR, ERP, OLC, RR, RP

Introduction

This hearing dealt with applications from both the landlords and the tenants under the *Residential Tenancy Act* (the *Act*). The landlords applied for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party. Neither party raised any service issues. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order for unpaid rent and recovery of the filing fee?

Are the tenants entitled to an order cancelling the 10 Day Notice?

Are the tenants entitled to an order for emergency repairs, for repairs, for an order for the landlords to comply with the Act, regulations or tenancy agreement?

Are the tenants entitled to an order to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began on March 1, 2018 on a fixed term tenancy ending on February 28, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated February 28, 2018. The monthly rent is \$3,000.00 payable on the 1st day of each month. A security deposit of \$1,500.00 was paid on March 1, 2018. A condition inspection report was completed for the move-in by both parties on February 28, 2018.

The landlords seek an order of possession and a monetary order for unpaid rent of \$7,603.41 which consists of:

\$3,000.00	Unpaid Rent, September 2018
\$3,000.00	Unpaid Rent, October 2018
\$1,603.41	Unpaid Utilities, July 10, 2018- September 7, 2018

During the hearing the landlord withdrew the monetary claim of \$1,603.41 for unpaid utilities. The tenant raised no issues. As such, this portion of the landlord's claim is removed and requires no further action. The hearing shall proceed on the remaining portions.

The landlords stated that the tenants failed to pay rent of \$3,000.00 that was due for June 1, 2018 and was served with the 10 Day Notice dated September 12, 2018. The

landlord also claims that as of the date of this hearing the tenants have failed to pay any rent since being served with the 10 Day Notice dated September 12, 2018.

The tenants confirmed receipt of the 10 Day Notice as claimed by the landlords and confirm that no rent has been paid as claimed by the landlords for September and October of 2018. The tenants argued that the landlords have failed to provide a copy of the signed tenancy agreement, provide any landlord contact information and conduct renovations/repairs promised. The tenants stated that by withholding rent then the landlords contacted the tenants by serving a 10 Day Notice.

Both parties confirmed that the landlord did not give permission for the tenants to withhold rent nor has an order been granted to the tenants authorizing them to withhold rent.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed evidence of both parties and find that the landlords did properly serve the tenants with the 10 Day Notice dated September 12, 2018 in person on September 12, 2018.

I also accept the undisputed affirmed evidence of the tenants that no rent has been paid to the landlords for September and October 2018 totalling, \$6,000.00. The tenants provided undisputed affirmed testimony that although an application for dispute was filed on September 16, 2018, the tenants do not dispute the landlords' claims. The tenants stated that their justification was to attract the landlords' attentions in failing to address issues regarding the tenancy.

Pursuant to section 55 of the Act, the landlords have established a claim for unpaid rent as per the 10 Day Notice dated September 12, 2018. The landlords are granted an order of possession for unpaid rent. As the effective end of tenancy date has now passed, I order service upon the tenants and that the tenants comply with the order within 2 days of service upon them.

As for the monetary claim, I find based upon the undisputed affirmed evidence of the tenants that no rent has been paid for September and October 2018 totalling, \$6,000.00 that the landlords have established a claim.

The landlords having been successful are also entitled to recovery of the \$100.00 filing fee.

As the tenancy is at an end, I decline to make any orders regarding the tenants' application for dispute and dismiss it without leave to reapply.

Conclusion

The landlords are granted an order of possession.

The landlords are granted a monetary order for \$6,100.00.

These orders must be served upon the tenants. Should the tenants fail to comply, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: October 30, 2018

Residential Tenancy Branch