



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This Hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an Order of Possession for Unpaid rent pursuant to section 46 of the *Act*,
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*; and
- the recovery of the filing fee for this application pursuant to section 72 of the *Act*.

The Landlord attended the teleconference hearing with her daughter who stayed as a support person to the Landlord. At the start of this Hearing another Arbitrator called in with their parties. After waiting 15 minutes for all parties to appear, I re-assigned the conference number. The Tenants did not attend at either teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing (the Notice). I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into either teleconference.

The Landlord was sworn-in and was given a full opportunity to provide sworn testimony and present evidence.

The Landlord testified the Tenants were served with the Notice of Hearing and Application for Dispute Resolution (the Application) and evidence package by registered mail sent to the rental unit on July 23, 2018. The landlord provided a copy of the Canada Post tracking number in support of service. In accordance with Sections 89 and 90 of the *Act*, the Tenants are deemed to have been served on July 28, 2018, the fifth day after mailing. I find the tenants were served as required by Section 89 of the *Act*.

Preliminary Issues:

The Landlord filed an amendment to the Application to correct the dispute address and provided proof of service. At the hearing the Landlord requested that the monetary amount be amended to reflect that apart from July 2018 owed rent, there is additional owed rent for the months of August and September. As per Rules of Procedures (the Rules) section 4.1 and 4.2 I find the request for amendments to be in accordance with the Rules and grant the amendments.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession for Unpaid rent pursuant to section 46 and 55 of the *Act*,
- Is the Landlord entitled to a Monetary Order for unpaid rent pursuant to section 67 of the *Act*; and
- Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*.

Background and Evidence

While I have considered all the documentary evidence and testimony presented by Landlord, not all details of the submissions and arguments are reproduced here. Only the aspects of this matter relevant to my findings and the decision are set out below.

The Landlord provided undisputed testimony that the tenancy began on March 31, 2018 and submitted in evidence a copy of the Tenancy Agreement. Rent was set at \$1,600 per month payable on the first of each month. The Tenants paid a security deposit in the amount of \$800. The Tenants continue to reside at the rental unit.

The Landlord testified that the Tenants stopped paying rent in July 2018 and currently owe July, August and September's rent.

The Landlord issued a 10 Day Notice to End Tenancy (the 10 Day Notice) on July 4, 2018. The 10 Day Notice was served by taping it to the rental unit's door on July 4, 2018, and is deemed received by July 7, 2018, three days after posting. The Landlord submitted in evidence a copy of a photo of the posted 10 Day Notice and a witnessed Proof of Service Notice to End Tenancy form, which indicates that the 10 Day Notice was posted to the tenant's door at 4:00 PM on July 4, 2018.

The 10 Day Notice provided that the Tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of July 14, 2018, corrected to July 17, 2018.

The Tenants stopped paying rent and now owe a total of \$4800 for the months of July, August and September 2018.

The Landlord testified that she now seeks an Order of Possession and a Monetary Order for unpaid rent, based on the 10 Day Notice.

Analysis

I have reviewed the documentary evidence and find that the Tenants were obligated to pay the monthly rent of \$1600 in full on the first of the month as per the tenancy agreement. The Tenants stopped paying rent in July and currently owe \$4800 for July, August and September 2018. I accept the undisputed evidence submitted by the Landlord that the Tenants failed to pay the rent in full or dispute the notice within the five days as per section 46(4) of the *Act*.

I find the documentary evidence was served in accordance with sections 88 and 90 of the *Act*.

Furthermore, I find that the Tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected date of the 10 Day Notice, being July 17, 2018.

I find the Landlord is entitled to an Order of Possession effective two days after service on the Tenants.

I find the Landlord is entitled to a monetary order in the amount of \$4800 for rent owed for July, August and September 2018.

As the Landlord was successful in this application, I find the Landlord is entitled to recover the \$100 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. 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.

Pursuant to section 72 of the *Act*, I grant the Landlord a monetary award in the amount of **\$4800** for owed July, August and September rent and **\$100** for the recovery of the filing fee for this application. Should the Tenants 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: September 17, 2018

Residential Tenancy Branch