



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR OPR FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on September 27, 2018 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for unpaid rent or utilities;
- an order of possession for unpaid rent or utilities; and
- an order granting recovery of the filing fee.

The Landlords were represented at the hearing by Y.B., who provided affirmed testimony. The Tenants did not attend the hearing.

On behalf of the Landlords, Y.B. testified the Application package and documentary evidence were served on each of the Tenants by registered mail at the rental address. In the absence of evidence to the contrary, and pursuant to section 71 of the *Act*, I find the Landlords' Application package and documentary evidence were sufficiently served on the Tenants for the purposes of the *Act*.

Y.B. was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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

1. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
2. Are the Landlords entitled to an order of possession?
3. Are the Landlords entitled to recover the filing fee?

Background and Evidence

Y.B. testified the tenancy began on or about July 1, 2017. Rent in the amount of \$740.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$370.00, which the Landlords hold.

On behalf of the Landlords, Y.B. testified the Tenants did not pay rent when due on August 1, 2018. Accordingly, the Landlords issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 7, 2018 (the "10 Day Notice"). Y.B. testified the 10 Day Notice was served on the Tenants by registered mail on August 7, 2018. A Proof of Service document and a Canada Post registered mail receipt were submitted in support.

According to the Landlord, rent was also not paid when due on September 1, October 1 and November 1, 2018. Currently, rent in the amount of \$2,960.00 is outstanding. The Tenants continue to occupy the rental unit.

As noted above, the Tenants did not attend the hearing to dispute the Landlords' evidence.

Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26(1) of the *Act* confirms:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

[Reproduced as written.]

The Landlords sought an order of possession. In this case, Y.B. testified, and I find, that the 10 Day Notice was served on the Tenants by registered mail on August 7, 2018. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. Therefore, I find the Tenants are deemed to have received the 10 Day Notice on September 12, 2018. Accordingly, pursuant to section 46(4) of the *Act*, the Tenants had until September 17, 2018, to pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. Y.B. testified the Tenants have not paid rent and continues to reside in the rental unit. There is insufficient evidence before me to conclude the Tenants disputed the 10 Day Notice. As a result, pursuant to section 46(5) of the *Act*, I find the Tenants are conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice. The Landlords are entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

The Landlords also sought a monetary order for unpaid rent. I find the Landlords have established an entitlement to a monetary order in the amount of \$3,060.00, which is comprised of \$2,960.00 for unpaid rent and \$100.00 in recovery of the filing fee paid to make the Application.

Conclusion

The Landlords are granted an order of possession, which will be effective two (2) days after it is served on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlords are granted a monetary order in the amount of \$3,060.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 8, 2018

Residential Tenancy Branch