



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding INVESTAVE PROPERTIES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR-S, MNDC-S, FF

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 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover its filing fee for this application from the tenants pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on March 29, 2019. The landlord has submitted copies of the Canada Post Customer Receipt and Tracking labels for each package delivered to each tenant.

I accept the undisputed evidence of the landlord and find that both tenants have been properly served as per sections 88 and 89 of the Act. Although neither tenant attended, both tenants are deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

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 applicant's claim and my findings are set out below.

This tenancy began on October 1, 2017 on a fixed term tenancy ending on September 30, 2018 as per the submitted copy of the signed tenancy agreement dated October 20, 2017. The end of tenancy term was not completed. The monthly rent was \$1,000.00 payable on the 1st day of each month. A security deposit of \$500.00 was paid on October 1, 2017.

The landlord seeks an order of possession and a clarified monetary claim of \$10,200.00 which consists of:

\$8,200.00	Unpaid Rent, \$1,000.00/month, December 2017 to March 2019 (16 months)
\$2,000.00	Loss of Rental Income, April and May 2019

The landlord claims that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 7, 2019 by posting it to the rental unit door on March 7, 2019. The 10 Day Notice sets out that the tenants failed to pay rent of \$8,200.00 that was due on March 1, 2019 and provides for an effective end of tenancy date of March 17, 2019. The landlord has submitted in support of this claim a completed proof of service document which was completed with a witness.

The landlord has also submitted in support of the monetary claim a tenant ledger for the amounts owed starting from December 2017 to the March 2019 detailing the amounts owed and any payments made. The landlord also stated that the tenants still occupy the rental space and no rent has been paid for April and May 2019 at \$1,000.00 per month.

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.

In this case, I accept the undisputed evidence of the landlord and find that the tenants were served with the 10 Day Notice dated March 7, 2019 by posting it to the rental unit door. This was confirmed by the landlord's submission of a proof of service document completed with a witness. The landlord has provided a copy of a tenant ledger detailing the amounts owed and paid starting from December 2017 to March 2019. The landlord provided undisputed testimony that no rent was paid since the 10 Day Notice dated March 7, 2019 was served. On this basis, I find that the landlord has been successful in establish a claim for an order of possession and a monetary claim for unpaid rent. The landlord is granted an order of possession to be effective 2 days after it is served upon the tenants.

As for the monetary claim, the landlord has established a total monetary claim of \$10,200.00. I note that this is \$1,000.00 above the amount filed, but find that as the tenants continue to occupy the rental unit and the landlord has confirmed no rent payments that this is an ongoing action which the landlord has established a claim.

The landlord is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$500.00 security deposit paid. No interest is owed.

Conclusion

The landlord is granted an order of possession and a monetary order for \$9,700.00.

These orders must be served upon the tenants. Should the tenants fail to comply, these orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court 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: May 14, 2019

Residential Tenancy Branch