



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL OPRM-DR CNR ERP LRE

Introduction

This hearing dealt with applications from both the landlords and tenants pursuant to the Residential Tenancy Act.

The landlords applied for:

- An order of possession for unpaid rent pursuant to section 55;
- A monetary award for unpaid rent and losses pursuant to section 67; and
- Authorization to recover the filing fee from the tenants pursuant to section 72.

The tenants applied for:

- Cancellation of the 10 Day Notice pursuant to section 46;
- An order for repairs pursuant to section 33; and
- An order restricting the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord BD (the "landlord") primarily spoke on behalf of both co-landlords. The tenant AW (the "tenant") spoke on behalf of the co-tenants.

As both parties were present service of documents was confirmed. The parties each confirmed they had been served with the other's materials. Based on the testimony I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not are the landlords entitled to an order of possession?

Are the tenants entitled to any of the relief sought?

Are the landlords entitled to a monetary award for unpaid rent and losses?

Are the landlords entitled to recover the filing fee from the tenants?

Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in May 2017. The monthly rent is \$1,450.00 payable on the 1st of each month. The tenants are also responsible for paying \$100.00 for utilities. A security deposit of \$725.00 was collected at the start of the tenancy and is still held by the landlords.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent dated March 29, 2019. The 10 Day Notice was personally served on the tenants. The amount of the arrear indicated on the 10 Day Notice is \$7,250.00. The tenants agree that there is an arrear in that amount. The tenant testified that they have not made any payments against the arrears.

Analysis

The parties agree that there is a rental arrear of \$7,250.00. Section 46 (1) of the *Act* provides that, “a landlord may end a tenancy if rent is unpaid on any day after the day it is due.”

While the tenants submit that they have been late with the rent in the past and the landlords have been made aware of their financial situation, I find that this does not excuse the tenants from paying their rent on the date that it is due in accordance with the tenancy agreement.

I accept the evidence of the parties that there is an arrear of \$7,250.00 for this tenancy. I accept the evidence that the tenants did not make any rent payment after being served with the landlord’s 10 Day Notice. Accordingly, I find that the landlords are entitled to an Order of Possession, pursuant to section 55 of the *Act*.

As this tenancy is ended I do not find it necessary to make a finding on the portions of the tenant's application having to do with an ongoing tenancy.

In accordance with section 67 of the Act, as the parties gave evidence that there is an arrear of \$7,250.00 for unpaid rent and utilities, I find that the landlords are entitled to a monetary award in that amount.

In accordance with sections 38 and the offsetting provisions of 72 of the Act, I allow the landlords to retain the tenants' \$725.00 security deposit in partial satisfaction of the monetary award issued in the landlords' favour.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlords' favour in the amount of \$6,625.00. The tenants must be served with this Order as soon as possible. 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: May 16, 2019

Residential Tenancy Branch