



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants: CNR MT LRE
Landlord: OPR MNR MNSD FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on July 23, 2019. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Preliminary and Procedural Issues

The Tenants did not attend the hearing, which lasted 11 minutes. Since the Tenants did not appear at the hearing, I dismiss their application in its entirety without leave to reapply.

The Landlord attended the hearing and provided testimony. The Landlord stated that he served the Tenants by sending them each a copy of the Notice of Hearing and evidence, by registered mail, on July 4, 2019. A copy of this tracking information was provided into evidence. Pursuant to section 89 and 90 of the Act, I find the Tenants are deemed served with this package on July 9, 2019, the fifth day after it was mailed.

The Landlord has requested to amend his application to include rent that has accrued since the original application date. I turn to the following Rules of Procedure (4.2):

Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

I hereby amend the Landlord's application accordingly.

The Landlord was provided 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.

Issue(s) to be Decided

- Are the tenants entitled to have the landlord's 10 Day Notice to End Tenancy cancelled (the Notice)?
 - If not, is the landlord entitled to an Order of Possession
- Is the landlord entitled to a monetary order for unpaid rent or utilities?
- Is the landlord authorized to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38?
- Is the landlord entitled to recover the filing fee from the tenant for the cost of this application?

Background and Evidence

The Landlord testified that rent, in the amount of \$1,200.00, is due on the first day of each month. The Landlord testified that he holds a security deposit of \$600.00.

The Landlord testified that he posted a copy of the Notice to the Tenants' front door on June 5, 2019. He testified that he posted both pages of the Notice. The amount owing at that time was \$1,200.00. The Landlord testified that this amount was for the month of June 2019. The Landlord testified that the Tenants have not paid any rent since, and also owe rent for July 2019.

Analysis

The first issue I will address is whether the tenants are entitled to have the landlord's 10 Day Notice cancelled. Although the Tenants filed an application to dispute the 10 Day Notice, their application is dismissed because neither of them attended this hearing.

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the

requirements under section 52 regarding form and content, I must grant the landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy (unpaid rent), and be in the approved form.

I accept that the Landlord served the Tenants with both pages of the Notice, and I find that the 10 Day Notice complies with the requirements of form and content.

The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the tenants.

Next, I turn to the Landlord's request for a Monetary Order for unpaid rent. After considering the evidence before me, I find there is sufficient evidence to demonstrate that the tenants owe and have failed to pay \$2,400.00 in past due rent.

The Landlord requested that they be able to retain the security deposit of \$600.00 to offset the amount of rent owed, and to recover the \$100 filing fee for this application.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was substantially successful in this hearing, I order the tenants to repay the \$100. Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount of rent still owed by the Tenants. In summary, I grant the monetary order based on the following:

Claim	Amount
Cumulative unpaid rent as above	\$2,400.00
Other:	
Filing fee	\$100.00
Less:	
Security Deposit currently held by Landlord	(\$600.00)
TOTAL:	\$1,900.00

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenants. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$1,900.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: July 24, 2019

Residential Tenancy Branch