



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPC MNR MNSD FF
 Tenants: CNR DRI LRE OLC PSF RR MNDC ERP

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on July 8, 2019 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim; and
- an order granting recovery of the filing fee.

The Tenants’ Application for Dispute Resolution was made on June 27, 2019 (the “Tenants’ Application”). The Tenants applied for the following relief, pursuant to the *Act*:

- an order cancelling a notice to end tenancy for unpaid rent or utilities;
- an order relating to a disputed rent increase;
- an order setting or suspending conditions on the Landlord’s right to access the rental unit;
- an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement;
- an order that the Landlord provide services or facilities required by the tenancy agreement or law;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;

- an order granting compensation for monetary loss or other money owed; and
- an order that the Tenants be paid back for the cost of emergency repairs made during the tenancy.

The Landlord attended the hearing and was assisted by S.A., an advocate. Both the Landlord and S.A. provided affirmed testimony. The Tenants did not attend the hearing. Accordingly, I find that the Tenants' Application is dismissed, without leave to reapply.

The Landlord testified the Landlord's Application package was served on the Tenants by registered mail on July 18, 2019. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Landlord's Application package is deemed to have been received by the Tenants on July 23, 2019.

The Landlord was provided with 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim?
4. Is the Landlord entitled to recover the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on May 8, 2019. The Landlord confirmed that rent in the amount of \$2,720.00 per month is due on the first day of each month. Despite what is indicated in the tenancy agreement, the Tenants did not pay a security deposit.

The Landlord testified the Tenants did not pay rent when due on June 1, 2019. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 27, 2019 (the "10 Day Notice"). According to the Landlord, the 10 Day Notice was served on the Tenants by posting a copy to the door of the Tenants' rental unit on June 27, 2019. At that time, rent in the amount of \$2,720.00 was outstanding. A copy of the 10 Day Notice was submitted into evidence.

The Landlord testified further that the Tenants did not pay rent when due on July 1 and August 1, 2019, and that \$8,160.00 is currently outstanding.

The Tenants did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on all of the above, the unchallenged evidence and testimony, and on a balance of probabilities, I find:

Section 55(1) of the *Act* confirms that when a tenant's application to cancel a notice to end tenancy is dismissed, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 of the *Act*, and the director dismisses the tenant's application or upholds the landlord's notice. The language in the *Act* is mandatory. The Tenants' Application, which included a request to cancel the 10 Day Notice, has been dismissed, without leave to reapply. Further, on review of the 10 Day Notice, I find it complies with section 52 of the *Act*. Therefore, pursuant to section 55(1) of the *Act*, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenants.

Further, section 26 of the *Act* confirms that a tenant must pay rent when due under a tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

In this case, I find the Tenants did not pay rent when due on June 1, July 1, and August 1, 2019, and that rent in the amount of \$8,160.00 remains outstanding. Therefore, I find the Landlord has demonstrated an entitlement to recover outstanding rent in the amount of \$8,160.00. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Landlord's Application.

Pursuant to section 67 of the *Act*, the Landlord is granted a monetary order in the amount of \$8,260.00, which is comprised of \$8,160.00 in unpaid rent and \$100.00 in recovery of the filing fee.

Conclusion

The Tenants' Application is dismissed, without leave to reapply.

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

The Landlord is granted a monetary order in the amount of \$8,260.00. 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: August 19, 2019

Residential Tenancy Branch